

THE RULE OF LAW ORAL HISTORY PROJECT

The Reminiscences of

Yvonne R. Bradley

Columbia Center for Oral History

Columbia University

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PREFACE

The following oral history is the result of a recorded interview with Yvonne R. Bradley conducted by Myron A. Farber on March 15 and March 16, 2011. This interview is part of the Rule of Law Oral History Project.

The reader is asked to bear in mind that s/he is reading a verbatim transcript of the spoken word, rather than written prose.

3PM

Session One

Interviewee: Yvonne R. Bradley

Date: March 15, 2011

Interviewer: Myron A. Farber

McGuire Air Force Base, NJ

Q: This is Myron Farber on March 15, 2011, interviewing Lieutenant Colonel Yvonne R. Bradley at McGuire Air Force Base for the Guantánamo Bay detention camp oral history at Columbia University. Colonel Bradley, you're in the Air Force Reserves, and yet you're here daily in McGuire Air Force Base, because you're on active duty now?

Bradley: I'm currently on active duty orders, and given my status, I do want to state that any comments that I make are my opinions and do not represent the United States Air Force, the United States Government, the Department of Defense, or any other U.S. government agencies.

Q: You're on active duty service fairly often?

Bradley: I'm currently on active duty orders for administrative reasons, but traditionally I'm what we call a traditional reservist. I'm actually a reservist, but I just am currently on active duty orders.

Q: Okay. You're not on your way to some theater of operations?

Bradley: No, I am not.

Q: In fact, in places like Afghanistan or Iraq, are there judge advocates on the scene?

Bradley: Yes, there are. Judge advocates are deployed in many theaters for a variety of work from administrative, contract, and international law to military justice.

Q: Even in battle zones?

Bradley: Near battle zones, pretty much at the site of battle zones, but in various places where they have set up bases, there would be often judge advocates involved, advising commanders and things of that nature.

Q: Let me back up a little bit to McGuire Air Force Base. We're not too far from Philadelphia. You grew up in that area?

Bradley: Yes, I grew up in the Philadelphia area.

Q: Right, and you went to school there?

Bradley: I went to school there. I went to undergrad in Philadelphia at St. Joseph's University and Notre Dame Law School in South Bend, Indiana.

Q: What year did you graduate Notre Dame?

Bradley: 1987.

Q: Was it because of some obligation that you had undertaken that you went into the Air Force?

Bradley: No, that was a choice that I made after interviewing with two or three top law firms that came to Notre Dame recruiting, and realizing that that is not where I wanted to take my legal career. I wanted to travel. I did not know what type of law I wanted to go into. Looking into the JAG [Judge Advocate General] program, it fit both bills of what I was looking for as an attorney. One, the opportunity to travel, and two, the opportunity to practice in different areas of the law until I decided what would be the best fit for me. That was a choice I made my third year of law school, to look into the JAG program.

Q: You didn't see yourself sitting around working all night long to save Pepsi Cola from—?

Bradley: That's the exact thing I did not want to do. I realized after my second or third interview that I would not be happy, no matter how much money in the world they paid, doing someone else's work for years, and not seeing family or friends or anyone else. No, that's not what I envisioned myself being at all as an attorney.

Q: Right. Do you have siblings?

Bradley: I do have siblings.

Q: Are any of them attorneys?

Bradley: No. In fact, I have a brother who is a police officer and a sister who is a principal. I had another sister who was an architect, but I am the only attorney.

Q: Right. Are you the youngest of them?

Bradley: I am actually the oldest.

Q: Okay. The Air Force came to the law school to recruit?

Bradley: I found out about the JAG program because way back in the recruiting files at Notre Dame was a small area dedicated to the JAG programs—both the Navy JAG program and the Air Force. I am not quite sure if the Army had a pamphlet. I found those files on my own once I realized I did not want to go with any of the top law firms that were recruiting at Notre Dame, and wanted to find a different path where I could travel and practice law, and not be committed to a law firm for the rest of my life. There was a four-year commitment when I originally came into the JAG program.

Q: You reached out to them, as opposed to them recruiting you, so to speak.

Bradley: Correct. I do not recall there being a recruiter at Notre Dame. I just remember there being a pamphlet, or some folders, some files, on the program. As I said, they were in the back of the file, at the end part of a file cabinet at the school.

Q: Right. I noticed that you said you went to St. Joseph's University, and then to Notre Dame Law School. Is there a religious connection there?

Bradley: No, not at all. I grew up Catholic. St. Joseph's is Jesuit. Notre Dame, obviously, is Catholic. My choice in either school had nothing to do necessarily with a religious affiliation. I chose Notre Dame because it was a good school. I went to St. Joseph's because it was a good school, and they accepted me.

I went to Notre Dame because I could spend my second year studying abroad in London. I had done that as an undergrad at St. Joseph's. I absolutely loved London, and wanted an opportunity to travel again. Notre Dame was the only school where you could spend your second year in London, which also drove my reason why I wanted to go into the service afterwards, for the opportunity to travel, and not necessarily be stuck in one particular location.

Q: I didn't know that you could have a second year of law school just enjoying the high life of London.

Bradley: Yes.

Q: I mean, was there some studying required there in London?

Bradley: There was study. It was still an intense course because we still had to keep up with our curriculum of second year. A lot of the programs were geared towards our second year agenda if we were back at South Bend. We got to spend the second year in London. I wouldn't trade that experience for anything in the world.

Q: Well, were you attached to a school for the second year there in London?

Bradley: Yes.

Q: Was there a faculty?

Bradley: Yes, there was a faculty. In my understanding, there were two law schools at the time that had study abroad programs for the 2L. Notre Dame was the only one that had a full year program to study abroad, which was the primary reason why I wanted to go to Notre Dame, and I was thrilled when I got into Notre Dame. The second was Pepperdine Law School, but Pepperdine Law School had only a semester. It was just the second half of your 2L semester. They had a program where you could study abroad, which is great, because a lot of our laws come from English Common Law, and that connection with studying with the Inns [of Court] and English professors was absolutely wonderful.

Q: That is what I am getting at. You were studying at the Inns of Court. You were not just on your own, doing independent study for that second year.

Bradley: No, it was not independent. It was very structured. Notre Dame had the program where you spent your second year studying in London. It was a combination of international law, of British Common Law, and our curriculum of what we would have been doing at South Bend the second year. They had their own building where they held the classes and they called it the campus. I think it was limited to a number of students. It was almost first-come, first-served, but not everyone wanted to go, because many people thought they were losing out on being in 2L, and not being back in the States, and getting the internships during the summer.

Q: When you say 2L, you mean 2L as opposed to 1L, which is the first year of law school.

Bradley: Correct.

Q: Have you ever read Scott [F.] Turow's *1L*, the book?

Bradley: No, I have not.

Q: Wonderful. I'll get it for you. But this was your second tour of duty, so to speak, as a student in London, having been there also for a year in high school.

Bradley: No, I was there for a semester my junior year when I was at St. Joseph's University.

Q: What was it about London that you like so much?

Bradley: I think that was the first time that I realized that people did not all think the same. A lot of times, as Americans, we think often very monolithic in our thoughts, our cultures, and our values. When I went to London, I realized for the first time that not everyone thinks the same way, and that people have different views of the history of the world, or the society around them. For me, that was just fascinating. Once I experienced that, I wanted to go back. I have been to London so many times since then, I consider it my second home.

Q: And your parents didn't have any problem with you going, as a young girl from high school, to London?

Bradley: Well, in fact, it was my mom who encouraged me. I didn't want to go to London the first time when I was at St. Joseph's. When my mom heard about the program, she was the one who encouraged me to go. I had the opposite view, as in why would I want to leave America? I don't want to go anywhere else. She nearly begged me to go. I went pretty much to stop her from bugging me about going to London. My first inclination was that I did not want to go, and my mom kind of badgered me into going.

Q: Were you with a group of girls?

Bradley: It was a group of students at St. Joseph's, and we all lived in the Hampstead Heath area of London. It was a co-ed group of individuals. When I went to St. Joseph's, they try to match the curriculum pretty much to what we would have if we were back in the States.

Q: Do you think you would ever consider moving there now in life?

Bradley: I would not mind having a summer home or some property out in the English countryside. I have traveled throughout the world. I have been to the Soviet Union, I have been to Paris, I have been to Greece, and I have been to Japan and China. I have travelled extensively, and London is probably still one of my favorite places to be. If I could take the sunshine of Hawaii, where I used to be stationed for a while, and plant more of that in the UK [United Kingdom], I would probably be a very happy camper. [Laughter]

Q: Much later on in this conversation, I want to ask you about the British government's role in the life of Binyam Mohamed and also how it ended with regard to the British government and Mr. Mohamed.

In any case, you are today what's called a Judge Advocate General.

Bradley: Correct.

Q: And part of the Judge Advocate General Corps, sometimes called JAGs.

Bradley: Correct

Q: What is the Judge Advocate General Corps, and what do you do in it?

Bradley: Well, the Judge Advocate General Corps is a fancy way for the military to say attorneys. We are all attorneys, have graduated from accredited law schools, and passed bars from our respective states. The JAG are attorneys who practice in the military. Each branch of the service has a JAG corps. I am not sure if the Marines have them, because they may use the Navy.

Q: What do they do on a daily basis?

Bradley: We do anything any other attorneys would do. We do contract law, we do labor law, we do administrative law, we do military justice, international law, environmental law, medical law, medical malpractice type of things, and tort litigation. With almost any type of practice that you will find on the outside that a civilian attorney would do, a JAG will do for the military service.

Q: Right. Now, you say that you spent some time in all those places you mentioned a moment ago, as a JAG?

Bradley: No. A lot of my travel I did either prior to coming into the military and it has been a mixture. A lot of travel I did as a student, either undergrad student at St. Joseph's, or as a law student. I had opportunity to travel once I was in the UK. Other times I have traveled just on my

own on vacations or on cruises or things of that nature. I love to travel and I love to see different things. That all was sparked, by the first time, when I did leave the country at my mom's begging as an undergrad.

Q: Can I assume that with all that travel you do not have children?

Bradley: That is correct. I do not.

Q: Are you single?

Bradley: Yes.

Q: After Notre Dame law school, were you in private practice before you joined the Air Force?

Bradley: No. My career path is after I graduated from Notre Dame and passed the bar, I came into the Air Force. I was in the Air Force for about six years of active duty. I was separated, with honorable discharge, from the active duty. I was stationed both at Travis Air Force Base for about three years, and then at Hickam Air Force Base, in Hawaii for another three years before I separated from active duty.

I got out and started working for what was known as the Resource Center in Pennsylvania. I went back to Pennsylvania and worked for the Resource Center, which was an organization that represented individuals on death row in Pennsylvania on their capital appeals. I did that for about

six years. There was some organizational change during the six years I was there. It was called Resource Center, and then we went to the Federal Defender's Office, but it was the same type of work.

I did that for about six or seven years before I then went and opened my own private practice, hung out my own shingles, as they say, and did a variety of legal work on my own. While I was with the Federal Defender's, probably after a year I was with the Federal Defender's, maybe less than that, I did go back into the Air Force Reserves, and I have been in with the Air Force Reserves ever since. Reserve duty requires a weekend a month and then two weeks during the year. Instead of being in the military full time, I went back into the Reserves.

Q: You were then for some period defending people facing electrocution or execution by one means or another?

Bradley: Correct. I think when I came in it was lethal injection in Pennsylvania.

Q: What was that experience like? Is that something that appealed to you for a particular reason or did you fall into it?

Bradley: I happened to, in some sense, fall into it when I left the Air Force. I was looking for a job and interviewing in the Philadelphia area. I spoke with one of the attorneys who was a Notre Dame grad and happened to be on the board of this new organization that was being established to represent individuals on death row in Pennsylvania. At the time, Pennsylvania had probably

the third largest death row in the country, but had no organized means of providing these individuals with representation.

There was a concern by the Pennsylvania Supreme Court and others, that if these cases started to move, there was no qualified body of individuals or attorneys to represent individuals on death row. They started what was known as the Resource Center. Because one of the individuals on the board was a Notre Dame alumnus, he recommended me for one of the first hires in this new organization. I fell into it by being in the right place at the right time.

Q: Did you think that that was what you really wanted to do, to defend people on death row? Did you have any strong feelings about capital punishment yourself? And what year did you come into it?

Bradley: I'm going to say about 1994 or 1995, maybe give a year or two. I graduated law school in 1987 and was in the military for six years. It had been about the 1993 or 1994 period when I went into the Resource Center.

As far as doing capital cases, the one thing I was dedicated to at that point was defense work. One of the opportunities that I had as a JAG was to do both prosecution and defense. I enjoyed both. I enjoyed doing prosecution and defense. But I enjoyed defense a lot more, because doing defense work, you were more hands-on with individuals and with people. You had to deal with not only your client, but the family. I got to experience and see the ramifications of how

actions—whether someone does something wrong or not—have ripple effects on people. I like doing defense a lot more than I like to do prosecution.

So I knew, whatever I did, I wanted and I was hoping to do something more defense-oriented.

When the capital cases came along with the job defending individuals on death row, I knew that was definitely a unique opportunity, and it also kept me in the defense realm of what I wanted to do as an attorney at that point.

Q: But you know the expression, death is different. Is death defense work different than anything else, just by nature of what the stakes are?

Bradley: Absolutely, because there is no turning back. I can tell you, probably one of the most intense feelings that I think any attorney can experience, or anyone can experience, is waiting for a telephone to ring from the United States Supreme Court on whether or not a stay of execution can be granted. I can't even find the words to describe that intense experience of just waiting for a phone to ring, and knowing that phone call may be life or death for someone.

Even though I went into this job probably neutral on capital punishment, even though I feel myself to be defense-oriented, I think the prosecution part of me, or the part of me that would be on the fence is, "If you can't do the time, don't do the crime." I was not generally either opposed to the death penalty or an advocate of the death penalty. But definitely after doing this type of work, and seeing the system and seeing the type of individuals on death row, and seeing all the

discretion and the emotions that go into this type of work, I became a strong opponent against the death penalty, for a variety of reasons.

I didn't go into it that way. I really went into it pretty much on the fence. I didn't have any strong emotions one way or the other. I was probably more opposed to it than I was advocate of it.

Being an African American and knowing the criminal justice system, you understand the discrimination and the disparity that often happens throughout the process of the criminal justice system, as well as ultimate sentences that people receive. My opposition to it would have been that it probably would be carried out unfairly, and that was definitely demonstrated.

Q: You mean, carried out—?

Bradley: In an unfair fashion, probably more against minorities.

Q: Well, statistics show that, do they not?

Bradley: Statistics did show that, but I did not have any empirical evidence at the time when I took the job. I just know the disparities in the criminal justice system from life experience and from being an African American attorney. Once you get involved, and you do the studies, and you do the research, and you see the statistics, and you see the numbers, and you see who is on death row, and the reasons they are on death row, you became factually opposed, as well as emotionally. As I said, when you are sitting there, actually waiting for a phone to ring, that will make a determination when someone dies.

I think the whole thing, in some sense, is barbaric, because no matter what the crime is, I don't think anybody wants anyone who's a so-called killer or murderer on the streets, but I think society can protect itself by putting a person away in jail for a long time. This is especially true in Pennsylvania, where life without parole means exactly that—life without parole. That person is never going to get on the street and do anyone any harm.

Q: But after the Supreme Court stopped the executions in 1972, and then I think in *Gregg v. Georgia* in 1976, they permitted latitude here for the states to develop a plan whereby aggravating and mitigating factors, et cetera, would be taken into account. And there would be sort of a mini-trial after a conviction as to whether a person should be put to death, I assume which was adopted by Pennsylvania, is that fair to say?

Bradley: Correct.

Q: And that was in place by the time you got into this work. You still didn't find that a satisfactory—still unfair, even despite that?

Bradley: No, it is still unfair, because that is exactly what the jury is doing and has to do in that mini-trial, when they are weighing the mitigating and aggravating circumstances.

Q: In the sentencing part.

Bradley: In the sentencing part of the trial. While I was with the Resource Center, we had done the statistics on Pennsylvania death row, where we looked at all the other factors being the same. We looked at victims, looked at mitigating circumstances and looked at aggravating circumstances. When you accounted for their differences, the only difference that came out was that even if all your factors were the same, if you are a black male, you are more than four times more likely to be given the death sentence than a white male, or any other factors.

Q: You mean a black male who had killed a white person?

Bradley: Particularly a white person, correct. So when you look at the aggravating circumstances, mitigating circumstances, all being the same, a black male was more likely to be given the death penalty than any other individual. Where others would get the life without parole, African American males were to be given the life sentence. We are accounting for, as I said, the aggravating and the mitigating circumstances being the same.

Q: Well, do you think that this kind of prejudice, so to speak, continued throughout your work in that area? It never changed, in any respect? I mean, it was as bad from your point of view when you went into that kind of work as when you left, or when you left as when you went in?

Bradley: Yes. I think in the criminal justice system, in some sense, Lady Justice is not blind. I think Lady Justice takes in a lot of other factors and discretions of who goes into the system and who does not. I used to teach criminal justice at a local community college. I will often give my class, predominantly white students, an example of, if you saw a white male on the corner

dressed in a nice suit, a policeman came up to him—he could be carrying a “nickel bag,” he could be carrying anything in his pocket—the chances that the police will even encounter such an individual is slim. There is the discretion there of how we see individuals, where if you saw an African American male standing on the same corner, pretty much minding his business, as an individual, you may be dressed well, but an African-American male in a white t-shirt, pants hanging down, most likely than not, there will probably be some kind of encounter with the police. You can see the discretion that starts, even at that point, with who may be encountered on the streets by the law enforcement.

Even as you go into the criminal justice system, if Mr. Jones happens to know the DA [district attorney], or works in an affluent area, or is someone who may know someone at the courthouse, there is going to be discretion there on how far his case may go into the system. Where if Johnny Too Bad, the African American male, goes through the same system, but he doesn't know the DA, he's not from an affluent area, or he doesn't have the connections, then his case is likely to go through the criminal justice system.

Statistics have shown that crimes are committed equally among all nationalities and ethnic groups. African American males do not commit any more crimes than other groups, but if you look at the criminal justice system, the numbers of African Americans in the criminal justice system is out of portion with their numbers.

Q: Would you say that among the people that you have represented doing that capital work—how would you put it statistically—were actually guilty of the murder? Whether they deserve to die or not to die, who were actually guilty of the murder?

Bradley: That is an interesting question. I don't think I have had anyone ask me that way before. It's hard for me to ask if they are actually guilty, because at that point, when we were representing them, they were already convicted and on death row. I know there have been a number of individuals who have been on death row nationwide who have been exonerated, particularly with the new advancements in DNA testing. That question is hard to answer, to some extent, because there have been people who have come off of Pennsylvania death row that we have represented, and there have been a number of people nationwide who have come off of death row. There have been cases that I have represented individuals where I have had severe doubts on that evidence that was provided at court.

Q: Have you had clients who were eventually put to death?

Bradley: I have had.

Q: It does take a long time between conviction and death, does it not?

Bradley: Yes. A lot of that has been the processes—I know it was under the [William J.] Clinton administration, the Anti-Terrorism Act [Anti-Terrorism & Effective Death Penalty Act of 1996] that he passed has sped up the appellate process. The general problem with the appeals is not so

much the time. Early, long before there were places like the Resource Center, it was the competency and adequacy of representation of these individuals. Going back to whether or not I have had clients who have been executed, there have been clients when I was with the Resource Center, in the Federal Defender's office, who were executed. The first one that I recall was [Keith] Zettlemyer. I was involved in Zettlemyer.

Each of the cases that I know of have been what we call volunteers, or individuals who gave up their appellate rights. Once they gave up the appellate rights, the appeal process is a lot swifter, and they were executed. I think the second one was [Leon] Moser. Both Zettlemyer and Moser were cases which I was involved in to a certain extent. Each of those individuals were what we would consider volunteers, because they refused to—

Q: Isn't that pretty rare?

Bradley: In some sense, it is, especially with the newer cases. I think for some of the newer cases, so to speak, the fight is still in the prisoner, to want to fight their cases to the appeal, and at least go through the appellate process before the final decision is made by the Pennsylvania Supreme Court, or U.S. Supreme Court at the federal court level. But for some of the older cases, such as Zettlemyer, Moser, when they have been on the row for years, and they know they're never going to get out of jail, sometimes they had a sense of hopelessness. They would rather face the ultimate penalty than to keep fighting what they may think is a losing fight, or in the end, their fate may not change.

It is not a common thing. I think we have had three or four volunteers in the years that I was with the Resource Center and Defender's Office, and two or three of those were executed. I think Gary [M.] Heidnik was another. But I wasn't on the Gary Heidnik case.

Q: Were you ever on a case where you represented the client up to the point just before execution? Or even at execution? Did you ever come that close, yourself, personally?

Bradley: I fortunately did not, only because Zettlemyer and Moser, as volunteers, did not really want counsel involvement. There was not that emotional involvement, or meeting the client, although we met with family and dealt with family. Since there was some distance between counsel and the client, because they were volunteers and didn't want to see counsel, it wasn't an emotional connection you would have with a client that you may have been representing for a while, or client that you had seen and talked with.

There have been attorneys who had been a lot closer. They had to work with counsel for a while, and at some point said, "Hey, I want to volunteer." What has helped those individuals to change their mind was the relationship with counsel, to be able to sit down and talk with the individual, and to perhaps persuade him to allow the courts—to fight for their rights in court.

Q: Finally in this area, did you ever have contact with victims' families?

Bradley: To some extent, but not fully. I know there was one case—and I don't know if it was the Zettlemyer case or the Moser case, and it may not even have been one of those cases—in

which the mother whose son the inmate had killed became the next friend. The next friend is when you do not have anyone to go into court. For example, you need someone who has the interest in the case to go and file paperwork in the courts. You call them the next friend. That could be a close family member of the individual. This particular individual did not have any family members either alive or who was willing to be the next friend.

Q: You mean the accused?

Bradley: The accused, years ago—if I have the facts correctly—had murdered the son, and the mother of the victim became the next friend.

Q: For the accused?

Bradley: For the accused. Based on her principle. This is a time when, even to this day, realizing how people can stand on their principles. She stood on the principle that she did not believe in the death penalty. She said, “When am I going to practice this other than—even for someone that is close to me? If I’m preaching that I do not believe the death penalty, I have to make that same principle even for someone like my son, who was killed.”

It was not that she ever wanted the individual back on the streets. She just did not believe in the death penalty. When we could not find anyone else to be the next friend for the accused, she stood up and was willing to be the next friend for the individual.

Q: Was this in the military?

Bradley: No, this is all when I was doing Pennsylvania death row cases.

Q: When you left the Capital Resource Center, or whatever it was called at the time you left, you went into private practice.

Bradley: Correct.

Q: And your private practice entailed basically what kind of work? You still have a private practice, do you not?

Bradley: In theory, I do. I have been on active duty orders for so long, but my practice is a general practice. I was doing criminal defense, and I was doing family law, wills, and consumer law. One of the benefits of being in the military is that you get to do all sorts of practice. I've done labor law, I've done wills—

Q: In private practice, also. Not just in the military.

Bradley: Well, my experience in the military helped me when I went into private practice, to bring those experiences and the skills I have learned from the JAG program, as a military attorney, to be able to open up a practice that was as diverse as I had, of being able to do family law, of being able to do wills, and of being able to do criminal defense.

Q: But leaving aside your experience with Guantánamo Bay, the military has been pretty good for you?

Bradley: The military has been excellent to me. I would tell any attorney who wants to practice law, and get their feet wet, and know how to practice law, not on your own, but definitely to jump in feet first, and become an attorney where there is a litigator taking responsibilities, I would highly advocate the JAG program. Highly advocate it. I tell law students or people going to law school today that if you have the opportunity to come into the JAG program, to do so. I think it is a fascinating program. The military has been excellent to me. I used to do a little recruiting for the Air Force when I was a young captain.

Q: Just because you are in the Air Force doesn't mean you can fly a plane, does it?

Bradley: No, it does not. If I had to have the top ten myths of the military, in particular the Air Force, not everyone in the Air Force flies planes. In fact, most people do not fly planes, but the planes don't get up without the great support of the administrative staff of the U.S. Air Force men and women.

Q: May I ask if you have a political attachment?

Bradley: I am a life-long Republican.

Q: Did that have any influence on your experience in, or how you approached what happened in Gitmo?

Bradley: None whatsoever.

Q: It is no surprise that, even like the Democrats, there are all kinds of Republicans. Would you describe yourself as a certain kind of Republican? A Newt [Newton L.] Gingrich Republican? A Ronald [W.] Reagan Republican? A Nelson [A.] Rockefeller? Do those terms mean anything to you?

Bradley: No, they do. I would consider myself probably a moderate. Whether you want to put it Republican or Democrat, I consider myself a moderate. I wouldn't consider myself conservative. Maybe I am more of an Arnold [A.] Schwarzenegger type of Republican.

Q: More than Sarah [L.] Palin?

Bradley: I will not comment on that whatsoever. No, I don't consider that extreme of the Republican party.

Q: No, I only raise the matter because it was a Republican administration when 9/11 happened, and the ensuing events that we will discuss. But you said it had no influence, your being a Republican. No influence on you, or what you did or did not do, or how you view things.

Bradley: No.

Q: Where were you on 9/11? Do you recall?

Bradley: I recall very clearly where I was on 9/11. I was at my mom's house. I don't know why I didn't go to work that day, but I remember being at my mom's house in Pennsylvania. I remember getting a call from my brother telling me to turn on the TV. I said, "Why?"

He just said, "Turn on the TV."

I kept saying, "Well, why do you want me to turn on the TV?" Then I think I asked him, I said, "What channel?"

He said, "It doesn't matter. Just turn it on. Any channel." I reluctantly turned it on, because he was excited, but he wouldn't tell me why he wanted me to turn on the TV. I remember turning on the TV, and I think at the time both buildings were there.

I called to ask my brother, "What the heck happened?" I could see the fire, and I could see the smoke from the towers. He said something about a plane ran into the building. I said, "Planes do not just fly into buildings in New York." I thought, "That's weird."

He said, "The second plane hit." Once I knew, when the second plane hit, I immediately remember thinking, "Oh my God, they need to get every plane out of the air." I knew at that point it was not a coincidence.

I remember exactly where I was, and where I was sitting, when my brother called and said, "Turn on the TV."

Q: Now, you were, at that time, in the U.S. Air Force Reserve, as a JAG.

Bradley: Correct.

Q: You were not on active duty at that time?

Bradley: No, I was not.

Q: Did you think that 9/11 meant that you would have to go back on active duty, or did you think in those terms at all?

Bradley: I don't recall thinking in those terms at all. I think the events of 9/11 were so numbing on everyone, I don't think I thought about what was going to happen next. I remember my thoughts back then were, for days on end, but particularly at the moment, were, "Oh my God, we've got to get the planes out of the air." Even to this day, I just remember that being one of the

thoughts. When the third plane hit the Pentagon, and I knew it was Armageddon, to a certain extent. I never thought of the long-term events at that point.

Q: Did you have occasion to spend any time thinking about terrorism, or the organization Al-Qaeda as it might affect the United States? Had you been thinking about that at all in your life?

Bradley: No. When I was in the military, the bad guys were the Soviets.

Q: You mean, when you started out.

Bradley: When I started out, yes. The threats were North Korea and the Soviets. I don't recall having much thought of the bad guys being from the Middle East, even though I think there were some upcoming events showing that, you know, there should have been more concern for the Middle East. At least when I was active duty, from about 1987 to about 1993, North Korea and that area of the world, and the Soviets, and China, and that area of the theater, was more where we thought the threats and concerns were. Even after the Cold War, there is still some tension between the old Soviet Union and the U.S. But no, I never thought in terms of terrorists, at that time, in the Middle East.

Q: And after 9/11, did you?

Bradley: After 9/11, the world changed. The world changed for the U.S. in a big way. It was no more about the Soviets or North Korea, even though we still have those concerns on foreign

policy in our international dealings with those countries. I think 9/11 changed the visions of many people of whom now the concerns were for the U.S.

Q: When the U.S. put forces into Afghanistan during the late fall and early winter of 2001, were you supportive of that? Do you recall thinking that they were on the right path here? That is what we ought to be doing?

Bradley: Again, these are my opinions, they do not reflect the U.S. Air Force, military, or any—. My opinion was, I did not think that was the best step because I didn't think Afghanistan, per se, had done anything to us. I knew enough of Al-Qaeda to know that Osama bin Laden had been in Sudan and other countries. I didn't think that it was the best way to invade some other country, just because Al-Qaeda happened to be in that country.

Q: Well, there are some people who just thought, I think the president [George W. Bush] himself said, "We've just got to go and get that guy." And that is where he was believed to be. And in fact, I think in truth, he was somewhere in that area.

Bradley: He probably was. People can differ. I don't think there is necessarily a right or wrong way to approach it. I don't think I would necessarily, if I was making the call—and thank goodness I was not—have made the decision to invade Afghanistan.

I often liken it to, if I have a conflict with one of my neighbors, and that neighbor happens to run into someone else's house, I don't necessarily have a right to kick down the front door of

someone else's house to get my neighbor. There may be other ways to negotiate or get that person out that I need to confront, talk with, or whatever it happens to be.

I was never comfortable, in my own personal opinion, with going into Afghanistan, but I am not saying that it was necessarily wrong. I don't necessarily believe, in my own opinion, that it was the best decision.

Q: Do you separate out the fact that the Taliban had been giving him safe haven, Al-Qaeda, in Afghanistan, and that he was in Afghanistan? I mean, can you envision a circumstance where, if you had been president, you would have said, "Well, okay, look. It's clear that this guy attacked and has killed three thousand Americans in the Twin Towers. And he's over there in Afghanistan, and he'll just stay there, and we're not going to bother him"?

Bradley: Well, I think it would have depended on the intelligence that I may or may not have received, being in that position. That could definitely have been a driving force. I think also, in making that decision, you have to look at the history of Afghanistan, and what happened to the Soviets in Afghanistan, and what your end goal is if you get bogged down in Afghanistan.

When the Soviets went to Afghanistan, they were not some Third World power. They were a superpower, and pretty much got their head handed to them on a platter. When you go in, you have got to look at the overall situation, current, historically, short term, and long term.

Otherwise, I think you end up in the current situation that we did. I know hindsight is 20/20, but

my initial reaction when we went to Afghanistan was that I did not think it was probably the best idea. But again, I do not get paid to make those types of decisions.

Q: If your intelligence—and in fact, I think even he was taking credit, if that is the word, for 9/11 after a period of time—was that Osama bin Laden and his cohorts had pulled off 9/11. Osama bin Laden had stood up on a mountainside in Tora Bora and said, “I am here,” would you have supported, if not getting involved in all of Afghanistan, just getting him?

Bradley: Oh yes, most definitely, and not only him. My own concern was—and I know we will get to this when we go to Guantánamo—that decisions that were made were not necessarily the logical ones, or the right ones, but they were political. When you make political decisions, they are not always the wisest decisions or the right decisions. To me, my concern would have been also in Saudi Arabia. What, nineteen of the twenty individuals were from Saudi Arabia?

Q: Yes, on the planes that were hijacked.

Bradley: Correct. That would give me great concerns about one of my allies in the Middle East, since a number of their citizens had been on the plane. I don't remember the number of Afghans who were on the plane, the number of Taliban that were on the plane, but I know the number of Saudi Arabians who were on the plane.

But again, decisions get made not because they are necessarily logical or correct or can be justified, but a lot of times, because of politics. I have learned from Guantánamo cases that

politics, a lot of times, is just that. Politics was the most difficult thing to deal with in Guantánamo.

Q: In the few years after 9/11, up to, even into 2005, were you called to active duty?

Bradley: After 9/11, in 2002, I had volunteered for a short tour over in Saudi Arabia. We had a base there at the time, Prince Sultan Air Base—PSAB for short. I had volunteered for a ninety-day tour, and ended up doing forty-five days, because we shared the slot with the Reserves and with the Guard. I was over in Saudi Arabia about a year after 9/11. In fact, I was in Saudi Arabia on the first anniversary of 9/11.

Q: What were you doing there?

Bradley: It was part of Operation Southern Watch, dealing with the no-fly zone in Iraq with Saddam Hussein, when they were enforcing the no-fly zone. Operation Southern Watch was part of that campaign. I was doing legal work at the base during that time.

Q: When you are on assignment in a place like Saudi Arabia, do you get around at all? Or are you really confined to the base, not only for your work, but for life generally speaking?

Bradley: You are pretty much confined to the base, particularly as a woman. There were a couple of individuals, I do not think any of the attorneys in the office, but some of the airmen who were there had some opportunity to get off the base. My experience in my time there was very limited

to just being on the base, and my interaction with some of the Saudi Arabian military that we dealt with. One of the feelings I always had when I was there was—again, this is just my opinion—if the Saudis are our allies, we are in trouble. That was just with that limited interaction I had with the Saudi military and the guards. You could just feel, in my sense, what I would describe as tension and maybe animosity, to a certain extent. Again, that could just have been what I was feeling, but I just remember thinking that if these guys are our allies, we are in trouble.

Q: Were you able to meet any Saudi women?

Bradley: No, just the interaction with the guards. They were just at checkpoints.

Q: Guards? Are you talking about women?

Bradley: No women, just men. I don't know if the Saudis allow women in their military. My only interaction was very limited interaction with the military guards, all men, at different checkpoints, because the Saudis control some limited areas on the base.

Q: Did you ever get to Riyadh?

Bradley: No, I did not. By the time I got there, Riyadh had pretty much been, you know—that is one reason why they had us in the middle of the desert in Saudi Arabia after the bombing. No, I never got to Riyadh.

Q: You mean you went to Saudi Arabia so you could recapture some of that sun from Hickam Field in Hawaii? I mean, it sounds like that is all that you could do on that base in the sun.

Bradley: Sun and heat and sand for as far as the eye could see outside the fence line.

Q: It was a year you did there?

Bradley: No, forty-five days.

Q: Oh, forty-five days. That is a different story.

Bradley: Yes. I can't complain that I only did forty-five days. I was glad I didn't have to do the full ninety. I am not quite sure how people can do a year.

Q: Was it really worth it for the military to send you to Saudi Arabia for forty-five days?

Bradley: About the forty-five day point, you are getting into the groove of who the commanders are, what the work you have to do is. Then you are about to process out. There were individuals who were there for even a shorter period of time, which I thought made absolutely no sense. It seems like it took forever to travel there, and by the time your body adjusted, and you would try to get work done, you are back on the plane.

At that point, I think what the military was trying to do is to be fair, and not give anyone any long tours—particularly the Reserves, since we were Reserves. The individuals who were doing the longer tours, the year tours, were the active duty members. But for the volunteer Reserves, I think they figured, if they made them shorter tours, they would get more people there to volunteer.

The efficiency of it, who knows if that is efficient. But it probably was one way to get those numbers up, without forcing people into the theater.

Q: Did we still have the no-fly zone over Iraq? In 2002, you say, you were called to active duty.

Bradley: 2002, correct. Yes, we still had the no-fly zone. I was called to active duty again for the Guantánamo. That was volunteer in 2002. I told myself, after spending forty-five days in the middle of the desert, I would never volunteer again. If my country wanted me to do the duty, to send me, I would salute smartly and say, “Yes, sir, I will go.” But I would never volunteer again. Four years later, I must have forgotten that pledge, because I volunteered again, and ended up in Guantánamo.

Q: Right, but in 2000, the rest of 2002, 2003, 2004, until you got a call on the phone in 2005, were you just in your private practice? You were not on active duty again?

Bradley: That is correct. After I came back from Saudi Arabia, I went back to my private practice. I was in the Reserves. I was not on active duty during that time period.

Q: And in late 2001, and then starting with the first detainees arriving in January 2002, the Guantánamo Bay detention camp was opened.

Bradley: Correct.

Q: Now, think back for a moment. During the period until you got a certain telephone call in the fall of 2005, what did you know of Guantánamo Bay? Had you ever heard of the detention camp? Had you ever heard of it or did you have any feelings about it in particular?

Bradley: The first time I heard of Guantánamo, I remember what the issue was. I have been in the military long enough that I can tell you fact from fiction, or what I believe, fact from fiction.

The first time I heard of Guantánamo was when Chaplain [James J.] Yee had been arrested and was going to be charged with being a spy, conspiracy, and a lot of other things that I thought were absolutely nonsense charges. The first time I heard the term Guantánamo Bay, and the controversy coming out of Guantánamo Bay, was about this Chaplain Yee.

Q: You heard about it in the military?

Bradley: I heard it on the news. I either read about it or heard it on the news. I heard it through the media. It was not through the military. It was through the media.

From the limited information that I could gather from the media, whether it was newspapers or television, radio, how ever I heard it, was that it did not sound—it was something wrong. I just could not imagine a captain, someone who had been in Guantánamo, would do what he had been accused of. My first reaction to that was that it is total nonsense! Whatever they are charging him with, whatever happened down there didn't make sense. I just had a sense that whatever they were doing to this young captain was probably not right. I felt there was more to the story than what was in the media—that he would not do something of that nature. You have to be suicidal, beyond suicidal, to do what they had been alleging that he had been doing.

That was the first time I heard of Guantánamo. My first reaction was that is a bunch of nonsense. I didn't know of Guantánamo itself. I didn't know what Guantánamo really meant. I didn't know anything about the detainees. I just heard about this Chaplain Yee that was supposed to have been corroborating with some of the detainees down there. And he was a spy, and he was working with them.

Q: You had no general picture of what was going on at Guantánamo Bay.

Bradley: None whatsoever. No.

Q: And would you say that lasted up until the fall of 2005, even?

Bradley: Pretty much, yes. Other than, the other terms I start hearing—Chaplain Yee was the first time I heard the word Guantánamo Bay, and then later on, I guess it was [Donald H.]

Rumsfeld or [Richard B.] Cheney, whoever it was, saying, “The worst of the worst are at Guantánamo Bay.” They were my two reference points of Guantánamo—Chaplain Yee, the “worst of the worst,” and we have a bunch of terrorists down at Guantánamo Bay. That was my world and thoughts on Guantánamo.

Q: If you had been asked then—Rumsfeld is saying, “We've got the worst of the worst down there”—would you have just accepted that to be the case at that time?

Bradley: Probably not.

Q: But he is the secretary of defense.

Bradley: Yes, but—

Q: You are in the Air Force reserve.

Bradley: I had no reason—well, okay, considering it is a new administration, I think I can say that I did not trust the prior administration. When we go back to the whole election of Bush's first term, I still had concerns about the way that he came into office. I had some distrust of the administration in general. That may have colored, to be honest, my opinions of whatever individuals may have been saying on a variety of issues.

Q: Despite the fact that you were Republican.

Bradley: Yes. I am not a partisan person. That is one of the things that drives me crazy today. I look at issues. I look at facts. That is why I consider myself a moderate. I do not jump on one side of the fence just because someone wears an R, or the other side, because they wear a D or an I, Independent, Democrat. I look at issues.

Q: But in any case, you did formulate some impression from the fact that the secretary of defense was saying that they are the worst of the worst?

Bradley: Yes. I did not have any real reason to doubt him, not that I necessary believed him. But I had no reason to doubt that if the U.S. was picking up individuals, I was not quite sure why they were holding them at Guantánamo. That never made sense to me as to why they were moving them out of one theater to a place like Guantánamo. I don't think I gave much thought about it other than wondering why are they doing that, and that is the Bush administration. That was probably my reaction.

Q: In the fall of 2005, you got a call from someone connected to the defense at Guantánamo Bay.

Bradley: Correct. In the early part of the year, maybe February, March of 2005, I recall seeing a notice in my e-mail about the military Air Force JAG looking for volunteers for Guantánamo Bay cases, if attorneys would be interested. I don't even think it was even representing individuals, but getting involved in Guantánamo Bay, either prosecution or defense. I think it was a very broad type of announcement.

I debated whether or not I was going to volunteer for it, after I volunteered back in 2002 and ended up in Saudi. But I did volunteer for it. I thought it would be historical, I thought it would be an interesting assignment. I never thought I would get the assignment, but I figured I might as well throw my name in the hat.

Q: They were looking for—?

Bradley: JAG attorneys.

Q: With regard to Guantánamo Bay.

Bradley: And the military commissions. Correct. They knew the military commissions would soon be started. They wanted to set up the military commission, but they needed attorneys to represent and prosecute.

Q: And this, you think, came in by way of an e-mail.

Bradley: It would have come in through announcements. We get various announcements through e-mails and newsletters.

Q: Now, earlier in our conversation, you had occasion to mention that the JAGs do prosecution and defense work, right? What is it that they do?

Bradley: Correct, but not at the same time. Normally when a new attorney will come into the JAG Corps, you go into a legal office. That legal office represents the commander on the base. You would be giving the commander advice on administrative law and labor law. On the base, you have civilian employees, you have got contractors, and you have military people. The legal office is like a mini law firm. You have different departments. You have a department of one or two attorneys doing military justice. You have an administrative department, or civil law department, where you have attorneys doing labor law or environmental law. If you were on a base where I was at, Travis, you have a medical office, so you may have a medical practice as well.

When everyone comes into the JAG program, one of the things that the Air Force wants is for everyone to be litigators. You have to get qualified to do courts martial. When you come in as a young captain, you are assigned to a legal office, and you get qualified to do courts. You prosecute cases. That is all you are doing if you are working in legal office. They have courts martial and you prosecute cases.

After about a year or two, those individuals who are considered qualified and good prosecutors may have an opportunity to work on the defense side of the house. For example, my career path was that I came into Travis Air Force Base and for about a year and a half, I worked in the legal office. I was the chief of administrative and preventive law. I did labor law. I did discharges. I did various civil law for the office. I was also a litigator. I was a prosecutor. Any time they had a court martial, I would represent the United States Air Force. A court martial is a trial for a

military member who violated the UCMJ [Uniform Code of Military Justice]. It has a book that has all the rules of how to do a court martial and the rules of evidence and offenses. It is a book if where you violate a certain offense, you could be charged with violating this offense.

Q: Give me an example of one of them.

Bradley: A common one would be Article 112a, which is Wrongful Use of Controlled Substance. If we did random drug testing, and if someone came up positive for cocaine or heroin or marijuana, that person could be subject to court martial. I would represent the government at the court martial, and the individual would be represented by either military defense counsel, which the military will provide free of charge to the individual, or they could hire civilian counsel. That military defense counsel was always someone who is a seasoned attorney, and who did not work for the legal office, but worked in the independent defense office.

Q: Oh, there is a defense office?

Bradley: There is a defense office. That is how the legal path of my military career went. I worked in the legal office about a year and a half, and then an opportunity opened up at Travis in the defense office.

Q: Defense against the violations of the Uniform Code of Military Justice, court martial?

Bradley: Correct. A court martial. The Area Defense Counsel, sometimes you hear the word ADC. It is just a term we use to call a defense counsel who would represent the individual who was being tried at court. That individual worked in an independent office, independent from the legal office, had a separate chain of command, and did nothing but defense work and representing individuals who were being charged at courts martial, or being tried at courts martial.

Q: Are they JAGs?

Bradley: They are JAGs. Most of them will get their feet wet by first coming in and working in the legal office, and are more experienced. You never would have a brand new individual into the JAG Corps go into the defense office.

Q: Would you ever have someone who was a prosecutor in court martial for four months, and then a defense?

Bradley: No. That may have been the case earlier on, in some years, maybe in the 1970s. But when I came into the military, into the Air Force, there was a very distinct separation between prosecution and defense. Once I left the prosecution office, I worked in the defense office. I never went back and forth from being a defense counsel one day, being prosecution in another case the next day. I spent about a year, maybe a year and a half, doing nothing but defense work.

Q: At Travis?

Bradley: I was a defense counsel at Travis. I represented individuals who the Air Force is taking to court martial, or any other type of adverse action. I represent the individual.

Q: Right, but these are military people.

Bradley: Correct, I represent military individuals.

Q: Military people who are the accused.

Bradley: Correct. I represented them.

Q: We are not talking about some jihadist from Indonesia or something. These are American military.

Bradley: Correct.

Q: And in 2005, when you saw this announcement that some entity was looking for military JAG lawyers for Guantánamo Bay, at that time, you were in private practice and in the Reserves, but would you say that you were a defense kind of JAG, not a prosecution kind of JAG? That if you had applied and they were looking for prosecutors, they would not have been giving you the job?

Bradley: Most likely not, but it would not have been against their interests for me to prosecute cases. Because as a JAG and as an attorney, you have a mindset of, whoever you work for, you are looking at the best interests of that individual. I do not think it would have been a hard press as a military JAG person, of working for the prosecutor or the defense. It is just once the teams are picked, you cannot go back and forth.

Q: Now once again, you see this announcement. Who was it that was looking for people?

Bradley: The Air Force JAG. I am quite sure the message came out initially from the TJAG, which is The Judge Advocate General. I think part of the process was that each branch of the service was to provide so many attorneys for this military commission. The Air Force was going to provide a number of attorneys, the Army, the Navy, and the Marines, everyone was having some type of joint venture in the military commission.

Q: So it probably came out of Washington.

Bradley: It would have to have been approved from the top on down, correct.

Q: They were looking for military counsel for military commission trials in Guantánamo Bay.

Bradley: Correct. As I said, I don't think it said necessarily prosecution or defense. It may have. I don't recall, but they were looking for attorneys that could follow the commission process.

Q: So you responded, and then you got a call? You filled out a form of some kind?

Bradley: I don't even remember if I filled out a form. I remember the e-mail message. I remember probably responding through e-mail that I would be interested. I'm not quite sure if I got a call anytime in between then to ask if I was still interested, which I may have. In about November, later that year, of 2005, and by this time, I probably had mostly forgotten about it. I do remember getting a call out of the blue from Colonel Dwight [H.] Sullivan asking me if I wanted to come down and work in the military commissions, if I was still interested in it. If I was, he had the perfect case for me.

Q: Did you know him?

Bradley: I did not know Colonel Sullivan. He is a Marine JAG. He was the chief defense counsel at the time for the military commissions.

Q: So when he said he had the perfect case for you, it was not because he knew you, or knew that kind of a lawyer you were, or anything of that sort. He just thought this was the perfect case, and you fit the bill, for some reason.

Bradley: Well, he obviously had done his homework. Colonel Sullivan is a great guy, and he obviously had done his homework. I must have turned something in. I know we have bios out online, so individuals can read your bio and pull up your background. He knew about me as far

as he knew I had done death penalty cases. He knew that I had done defense work for a period of time, and I had my own practice.

He had done his homework on me. When he said he had the perfect case for me, I do not think I necessarily understood at the time. When he assigned me to the Binyam Mohamed case, an attorney by the name of Clive Stafford Smith had already been representing Mr. Mohamed. Clive Stafford Smith was well-known in the death penalty community, so the “perfect fit” was that he was putting me on a case with Clive Stafford Smith, who was a death row attorney. Colonel Sullivan knew from my background that I had also done death penalty cases. The perfect match was the attorney who was already assigned to Binyam's case.

Q: Right. Now, you were a major at that time, weren't you?

Bradley: I was a major at the time, correct.

Q: Okay. And so you responded favorably.

Bradley: I did. I think especially when I heard Clive Stafford Smith's name attached to the case.

Q: And you say that he [Col. Sullivan] particularly told you that you would be defending one Binyam Mohamed?

Bradley: Correct.

Q: The name came up then.

Bradley: The name came up then. I remember during that conversation when he told me I would be on the defense side. This is why I think the announcement did not say defense or prosecution. He said he had looked at a number of names of people who had put applications in and because I had the death penalty experience he wanted me on the defense side. That is when the light bulb went on, like, duh, yes, given my vast experience with capital cases doing defense work, it is very likely that if both sides are looking at who is applying, that I will be attracted to someone with a defense-oriented mind. And I will find it more likely than the prosecution looking at this going, "You could have her."

Q: Now, at that time, what did you know about these soon to start, but previously authorized, military commissions?

Bradley: Not a thing.

Q: Would you know the term? I mean, you had been in the Air Force since childhood.

Bradley: Not military commissions. All this stuff is made up, pulled out of some magic hat, and just thrown on the scene.

Q: You were a JAG. You know the Uniform Code of Military Justice.

Bradley: Oh, I know the UCMJ. I know courts martial. I know those terms. I know what they are. Military commissions were a magical thing. All I understood was that they were war trials and they were going to be called military commissions.

In fact, I remember asking Colonel Sullivan to tell me a little bit. Once I accepted, I realized, I don't know what I really stepped into. I remember asking him, "Well, when they have these commissions, are they going to be run more like courts martial? Are they going to be run more like administrative boards, where if someone is going to be discharged from the military service, they may be entitled to a board, where you sit in front of officers, and you present evidence, but the rules of evidence are looser, and it is a preponderance of the evidence?"

I didn't know what a military commission was. I didn't know whether they were going to be run more like courts martial, or if they were going to more like administrative boards.

I remember Colonel Sullivan saying that he really did not know. And that almost we were going through the same experience together as far as how the commissions will really be established. He did not have a whole lot of answers on that. I remember leaving the conversation confused, because I did not know to what extent I needed to prepare as far as burden of proof, or how the proceedings would be carried out.

Q: Is this a conversation on the phone you are having with him?

Bradley: This was a brief conversation I had with him on the phone, because I recall asking him about how they were going to run the military commissions, how strictly they were going to be run and what the proceedings would be like.

Q: When you hung up the phone with him, did you not call your mother or somebody, and say, what is a military commission?

Bradley: No. I think I asked Colonel Sullivan. I think Binyam had just been charged. At that time, and I think even until today, the individual was not entitled to a military counsel, defense counsel, until there had been charges. Even if they knew the charges were coming, the person was not entitled to have an appointed defense counsel until the member was charged.

I believe I asked Colonel Sullivan about getting me the documents and the paperwork, and he said he did not have them, but that Clive had them, and he would put me in contact with Clive or Clive would be in contact with me. I remember my reaction getting off the phone was that I need to get in touch with Clive as soon as possible to get documentation on what is going on.

Q: Had you ever heard of Clive Stafford Smith?

Bradley: I had heard of Clive Stafford Smith because, doing capital cases for six years, Clive was of the top attorneys in capital cases. I had seen him at conferences. They normally had a couple of big death penalty conferences in the country twice a year. I had been to a number of them, and

had either heard of his name at the conferences, or heard him speak, or seen him at a conference.

I knew who he was, in that sense.

Q: He's both a Brit and an American, isn't he?

Bradley: Yes, he is.

Q: Does he basically operate from Britain, or from the United Kingdom?

Bradley: Well, for a period of time, I think he was chiefly in Louisiana doing a lot of death penalty cases down south. Then, I do not know if the word is "open", but he founded Reprieve, which is based out of London. There may be a branch in Louisiana as well. I think Clive was spending time on both sides of the pond, as they say.

Q: Right. So did you call him, or reach out for him?

Bradley: I don't know who called who first. I know that one of urgent things that I wanted to do, and from what I recall, was relatively within that day or two, I was able to reach out to him, or he reached out to me, and started providing me documentation that he had. He had been representing Binyam probably since earlier that year, and had already made the trip out to Guantánamo, and had spoken with Binyam, had spoken with family members. He had a good deal of documents and paperwork that he already had gathered, and had a rapport, so to speak, with the client at that time.

I remember him sending me documentation, and particularly what I was looking forward to reading—an important document—was the charge sheet. I needed to know what my client was charged with. He sent me a host of paperwork, including the charges. I believe I got the charges from Clive.

Q: Do you know how Clive came to represent Binyam Mohamed?

Bradley: I'm not sure. I know Clive represented a number of the, if not all of the British—I don't want to say all—but a number of the UK residents, British detainees. I'm not sure—I know Clive, along with Joe Margulies and a number of other individuals, were instrumental in some of the earlier litigation, and getting attorneys involved, and being involved in this. They saw the handwriting on the wall when the rest of the legal world was still asleep, on the constitutional and international realm of what was happening at Guantánamo. If not for people like Clive and Joe, and others—they are the ones who really much got involved early on. How Clive got involved in Binyam's case specifically, I don't know. I know he was instrumental, and one of the earlier attorneys involved in this whole entire process.

Q: Did you ever come to learn or to understand that in the first few years of operation, January 2002 until 2004, that the detainees in Guantánamo were not entitled to lawyers?

Bradley: Correct. There were people like Joe and Clive and the *Rasul* [*v. Bush*, 2004] case pushing those issues.

Q: And could not file habeas corpus petitions?

Bradley: Absolutely horrendous, but that is true.

Q: Well, in other words, these things, this set of conditions that existed before you made an application or accepted in the fall of 2005—you really did not know much about that.

Bradley: No. I think the administration would have been more than happy to allow that sleeping dog to lie.

Q: So you are in contact with Clive, and he gives you some information. Now, look, he has got Binyam Mohamed, detainee number what down there, do you know?

Bradley: Trying to remember. You would think I would remember.

Q: Well, whatever. I mean, he had a number. He had Clive Stafford Smith working on his case, right? To some extent he had had Joe Margulies. Why do they need you? I don't understand. Why?

Bradley: Because one of the fictions of Guantánamo was, if you are going to have military commissions, you have to have a military JAG. The whole process was not going to work with people having competent civilian attorneys. After all these are military commissions, so you had

better get the JAG involved. Every case had to have a JAG, no matter what. That is the way the rules were written. The rules were written that the accused would have a military attorney.

It became ironic, at one point, where Joe and Clive were in the courtroom, and I am the one who probably had the least—well, Clive had probably the most—rapport with Binyam at the time. I was the one who had to be at the table, because the rules require that the person be represented by a military counsel. They had to be. It did not matter who else, no matter what law degree they had or how competent they were. You had to have a military JAG at the table.

Q: Was the idea before these military commissions that you would also have civilian counsel? Or is it possible you would only have military defense counsel?

Bradley: If the Bush administration had their way, as you said, there would have been no counsel, there would have been no habeas, and there would have been no due process. They would have put these guys away forever, and let them see the light of day whenever they decide they would see the light of day.

This had nothing to do with anyone being represented for any reason. I think they brought military counsel on because I think they thought they could control military counsel better than they could control what I am quite sure they thought were these left-wing, liberal individuals coming in, and disturbing the apple cart.

Q: But to your knowledge, how many military commissions have there ever been down at Guantánamo?

Bradley: To date?

Q: Yes.

Bradley: I think at this point they have rammed through six cases.

Q: Now, in each of those cases, did the person have a civilian lawyer as well as the military defense? I am talking about defense side.

Bradley: No, I understand. I am trying to go through—[David M.] Hicks had both. Every single case is going to have to have military defense counsel. That is required. Hicks had both. [Salim Ahmed] Hamdan had both. I want to say both civilian and military. [Ali Hamza] al-Bahlul had just military counsel, because al-Bahlul did not want to go through the system at all. He was not even going to show up for his trial. I don't think he had both. I think he just had military counsel. I am not sure if [Ibrahim] al-Qosi had civilian counsel. He may have. [Omar] Khadr did.

Q: You are saying that before these commissions, there was a rule that you had to have a military JAG involved on the defense side. All I am just asking you is whether there was a rule that you had to have a civilian as well.

Bradley: Well, let me put it this way. From my understanding, if we talk about courts martial, the accused has a right to Area Defense Counsel, military counsel, defense counsel, free of charge, or civilian counsel, which he can pay for. He can say, "I do not want Area Defense Counsel. I want to be represented solely by a civilian defense counsel," and perhaps keep the Area Defense Counsel second chair, if he so wishes.

Q: That is not the military commission.

Bradley: That is a court martial. That is what people are used to. Members, counsel, accused making a choice of counsel. Here there was no choice of counsel whatsoever, as far as military defense counsel was concerned. You were going to have a military defense counsel, come hell or high water.

Q: So, you talked it over with Clive, he gave you some material about Binyam Mohamed. And you had never met Binyam Mohamed, right?

Bradley: That is correct.

Q: You never heard of him.

Bradley: Never knew of him.

Q: Right. You did not know what he was accused of when you came into the picture, right?

Bradley: Not at the time when I got appointed. I had no idea what he was accused of.

Q: So did you go down to Guantánamo Bay?

Bradley: Eventually I did go down to Guantánamo Bay. I remember when Clive e-mailed me the materials and particularly the charge sheet. I remember reading the charge sheet, and getting to the end, and saying to myself, this does not make sense. I think I e-mailed Clive back and said to Clive, "You must not have sent me all the charges. There has to be more than this."

He said, "No, that is it."

I recall reading them several times, and started laughing, going, "You have got to be joking me. This does not even make sense." The charges did not make sense and the fact scenario did not make sense. I was perplexed.

Q: What were the charges?

Bradley: I must have read hundreds of charges. I have written charges myself, when I was prosecuting cases. After I left Travis and went to Hickam for the second part of my tour, I was the chief of military justice at Hickam, so I wrote charges. I know how to write charges. When I read these charges in Binyam's case, it was this long, long, large, convoluted conspiracy. It was like telling a story that was a fantasy. It made no sense. It was that he went to this camp, and he

went to the other camp, and he met Khalid Sheikh Mohammed [KSM], and he had dinner with this person. Then at the end, he was stopped at the airport trying to fly back to London. I am going, "Okay, where are the charges?"

I guess in my mind, when you hear this term, "worst of the worst," I was expecting blown-up buildings. I was expecting dead bodies. I was expecting some atrocities. I was expecting something more concrete, something more detailed, other than general allegations of going from camp to camp. I think Jose Padilla's name was in there, and that he was supposed to come to the U.S., and there was this dirty bomb. It made no sense to me as to what they wrote as the charges. As I said, I was looking for and expecting something more concrete, such as war atrocities or something more specific. It lacked all that.

For the last line of the charges to read, "and he was stopped at Karachi Airport, going back to London," I am looking for what happened after that. At that point I am thinking, "There is nothing here. This is one complex conspiracy which is not a war crime, and it does not make sense how they are going to prove any of this, if any of this is true."

Q: Well, were you open to the idea that this was a sort of umbrella thing on which facts were going to be inserted?

Bradley: As I said, I heard the term "worst of the worst" and that this guy was to be one of the first ten charged. I just figured if you are coming out on something like this, you are going to bring your worst case and your best cases up front, and everything else is going to follow. I just

figured, when I saw something like that, “If this is the best that the U.S. has against this individual, then we are in trouble, because this is not the strongest case by any stretch of the imagination to be bringing to trial.”

Q: Would you say that you were open to some sort of elaboration by the authorities on these generalizations, or that you knew that, “Well, I am going to be a defense person for him, so I am happy this is just general and maybe there's nothing more?” When you are of defense counsel mindset, do you consider yourself able to say, “This just sounds like a bunch of malarkey, but maybe there's more”?

Bradley: No, I guess I was more of a military mindset, and knowing military charges, and details of military charges and specifications of how they write them against individuals. I guess my mindset was more on the military end of things. I just expected the charges to be detailed and different and specific. I know how the military drafts charges. I know how the military makes sure that they have the evidence. That was my concern, that they were not meeting what, in my military mindset, either as a prosecutor or defense attorney, as a JAG, what I believed the charges would be against the individual.

Q: Right. And you read these charges even before you went down to Guantánamo Bay.

Bradley: Correct.

Q: Now, was there anything else that you did with regard to the case before you actually went down to Guantánamo Bay?

Bradley: Not really. I remember just reading the charges, and reading some of the material that Clive had collected from family, and from other sources that he had. My only preparation was really reading whatever material that Clive had already gathered in representing Binyam to that time period and then having an opportunity to talk with Clive prior to seeing Binyam.

Q: Didn't you think about, I am going to call up Colonel Sullivan and say, "I have read these charges now, where's the charge sheet? This is like a prologue," or, "This is something irrelevant that doesn't add up to what the military normally does"? Did you consult with anybody in the government, or in the JAG Corps to say, "You know, I am not satisfied. These can't really be the charges, there must be something else here"?

Bradley: No. If I had that conversation, I would have had the conversation with Clive, even though he was not in the military. As I said, one of my first reactions to Clive was, "Clive, you must not have sent me everything. There has to be more to this than what you sent me." I never followed up with Colonel Sullivan, because I could tell with the conversation with him—when I was asking about military commissions, he was like, "I am not quite sure how this is going to be run, if they're going to run them like boards, they're going to run them like courts, this is all new"—that he was no more in a position of knowing what was going to happen with this and that everyone was stepping out into uncharted territory at the time.

I just did not realize how uncharted, and how daunting, it was going to be, until I got that charge sheet. Then I realized. It just gave me some alarm, because, as I said, it was beyond my expectations.

Q: Now, you still had not yet been down to Guantánamo Bay.

Bradley: No. This was about mid-November of 2005.

Q: Had you at that time heard of something called the Combatant Status Review Tribunal [CSRT]?

Bradley: I heard of those later.

Q: You had not heard of them then.

Bradley: No, I had not.

Q: Had you ever heard of something called the ARB, Administrative Review Boards?

Bradley: I had not heard of those either.

Q: Adhering to your perpetual search for the sun, you set off for Guantánamo Bay?

Bradley: At Clive's request. He said we needed to go see the client as soon as possible.

Q: Had he met him?

Bradley: He had met him at least a couple of times, I do believe. At least once, probably more than once. He probably had met Binyam a couple of times before he and I went down there. Clive and I met, and this is a bit of another example—we were going to fly out the day after Christmas. I did not plan to cut my Christmas vacation short and be flying down to Guantánamo, but given Clive's schedule, and given that he thought it was important for us to meet the client as soon as possible, because he knew things would probably move very swiftly once the charges had been proffered against Mr. Mohamed, he wanted us to go down to Guantánamo as soon as possible.

I think Clive had his concerns about—we have these military commissions and military defense individuals involved sizing each other up. We met up in Jacksonville, Florida, where we thought we were going to fly out later. We were told by the military that we were not flying out from Jacksonville, that we actually had to fly out at Miami, which meant Clive and I had a long six hour drive—I mean, I never knew Florida was that long from Jacksonville down to Miami—so we could catch our flight the next day, to fly down to Guantánamo.

Q: You, in the Air Force, couldn't get a lift from Jacksonville?

Bradley: It was the holidays. There was a miscommunication about where we were going to fly out. I had already told Clive Jacksonville, Florida. I think that was the problem. I think Clive was coming from London. I had already told him we were flying out of Jacksonville, because that is what I was told. Then at the last minute, they said, no, it is Miami, Florida. Clive could not, with the holidays, coming from overseas, get down to Miami. I had this taxpayers' funding flight, so that became easier for me to change my flights, but not so much for Clive. We ended up meeting in Jacksonville, as we originally thought we were going to fly out, and then driving down to Miami to catch our flight.

Q: And you did catch a flight.

Bradley: We caught a flight, a very small plane to boot, which was not to my delight. I have flown on a lot of different things. I just did not imagine I would be flying on pretty much a six-seat plane. It was a very small plane from Miami to Guantánamo with Clive, and I think with one other colonel or major, who kept asking questions, which I felt uncomfortable with at the time, because I know the conservative views of the military, and it was best not to make too many comments to folks. I don't even remember how long the flight was. It was probably at least a couple hours or so.

Q: From Miami to?

Bradley: To Guantánamo. Because you cannot fly straight. Because of Cuban airspace, you have to kind of make a loop around to Guantánamo.

Q: One of the issues that some lawyers have mentioned over the years with regard to defending people in Guantánamo Bay, or filing habeas corpus petitions, or meeting with them is the difficulty of getting to Guantánamo Bay from the mainland.

Bradley: It takes forever. It takes forever, even for military.

Q: A six-seat plane? Something like that?

Bradley: If you got one that size. As I said, the one that I first took there, I don't think it was even sixteen seats on the plane. It was a smaller plane. But when I first started going down to Guantánamo, it would be like a five day trip, anywhere from three to five days to see your client for one day. Because you had to fly from Washington, where the military commission's office was located, down to Miami, which means you flew out like maybe Tuesday—

Q: Why did you have to go to the military commission's office?

Bradley: Because that is where most of the attorneys were working. There was a defense office down in Washington, and there was a prosecution office, so when attorneys were getting stationed, or getting appointed to represent clients, they were stationed in D.C. area, because that is where the offices were located.

Even if you did work out of Washington, ninety or ninety-five percent of the attorneys worked out of Washington, you had to fly from wherever you were down to Miami, because that was the only location where you would get a flight to Guantánamo. So that meant a day of leaving Washington for wherever you were to fly out to Miami, stay in Miami overnight, because the planes only left early in the morning. So if you weren't in Miami in the morning, you had to wait until the next day.

And then, so the day before, to go down, spend the night in Miami to catch a flight out in the morning from Miami on a very small aircraft. Get into Guantánamo. You have to go through the bureaucratic paperwork of going onto the island. Get onto the other side of the island, which we had to take a ferry or boat from one side to the other.

Q: Why?

Bradley: Because there are two parts of the island. There is the leeward side of the island, where the flight line is, where the planes came in, and then the windward side of the island, the other side of the island, where the hub of the base is and where the camps were. So you flew on one side of the island and had to take a ferry or a boat to the other side.

Q: And you did this on this occasion, around the end of 2005?

Bradley: It was the end of 2005. December 26 was the day we started traveling.

Q: With Clive?

Bradley: With Clive.

Q: And I guess you were to have some accommodations down there, were you not? Were you going to stay there more than a day?

Bradley: Yes, because of other issues. Then I got stuck down there, because I could not get down there because of the holidays, so there was nothing flying out. So I ended up staying five or six extra days down there. I could not get back until after the New Year. But yes. We flew down, I think we left on the 26th, I think we got to Guantánamo on the 28th, and I think our return was on the 3rd or 4th of the New Year.

Q: And this is the first time you are at Guantánamo?

Bradley: Correct.

Q: In the days before you left, and after these discussions with Colonel Sullivan, your acceptance to the appointment, have you formulated in your mind some idea of what Guantánamo would look like?

Bradley: No.

Q: Well, had you ever heard these stories about people in orange jumpsuits?

Bradley: I guess with Clive, I was so focused on the legal issues. One of the stories I remember from Clive is, Clive kept saying, "Well, when you go in there, you can't keep your notes."

I was like, "What do you mean, you can't keep your notes?"

"Well, you have to give your notes to the guards."

And I am like, "I am not giving my notes to the guards. What are you talking about?"

He said, "Well, none of the attorneys can keep their notes." And I remember thinking that makes no sense to me. And I remember thinking how I have represented people on death row, and I kept my notes from death row. And he explained how you have to go through security checkpoints.

And I am thinking to myself, "What are you talking about?" I mean, a lot of stuff he was saying to me was just so foreign to me, both as an attorney and as a major, I am like, "What?" And I am thinking, "Well, did Clive do something? Maybe Clive has to go through some kind of special checks. I am not going to go through special checks. I have been in the military for X number of years. I hold security clearances. What are you talking about?"

So no, I don't recall thinking much about Guantánamo, other than some of the stories of whether I have to give up my notes, and what it was going to be like meeting the client. But the island itself, and what to fully expect, I don't think I gave much thought about it.

Q: And was it the day that you arrived or the next day that you met Binyam Mohamed for the first time?

Bradley: I am not quite sure it was the day that we arrived. It may have been the day that we arrived. If not, it definitely would have been the next day. And I remember the plan that Clive and I had, because I had concerns, given the stories that Clive had told me about Binyam's treatment, abuse, and his rendition.

Q: He had just told you this in the last couple of months.

Bradley: Correct.

Q: You did not know any of this firsthand from Binyam?

Bradley: No. I didn't know any of this firsthand from Binyam. I heard it from Clive. I guess part of me was—again, I am hearing the “worst of the worst.” I know Clive is a defense attorney, and I know sometimes you try to paint your picture in the light that is best for your client. So I am taking all this in, as far as hearing these stories, hearing that my government rendered this and

did this, hearing the worst. In my head, I am thinking, “Okay, maybe some of this is exaggerated, but even if it has not, this guy has been held for a number of years by military people.”

Then you are hearing the stories about Muslims, and they do not like women, and you are a second-class citizen. So I am thinking of all the baggage and that I am carrying in. So what is the best way to approach this individual who has not me seen before? I wear a uniform, I am a woman, I am a Christian—not that that would necessarily come up—and he is a Muslim? So I am thinking in the back of my head how all this could go wrong.

So the game plan was to allow Clive to go in and talk to him, and let him know that against your will, against my will, the military has forced an attorney on you, and this is who this person is.

To at least let Binyam start to process that. And then we were going to do that the first day, and let him spend time with Clive, how he felt about that, and have me come in the second day. But Clive did that in the morning. In the afternoon, we took a lunch break. When Clive came out to do a lunch break, Binyam said I could come back in the afternoon, during the afternoon session.

Q: That would be the first time you met him.

Bradley: That would be the first time that I met him. I did not wear a uniform that day. Again, I didn't want to walk in, in the cell wearing the same uniform as the individuals who, for the last month, years actually, had been holding him captive, in his mind.

Q: Did you have the latitude to wear what you want to wear?

Bradley: Not really. But it was something that I made the request, and thankfully they allowed me, at least once. I was told for the first visit and the first visit only, which later became the rule, that you could wear civilian clothing only one time.

Q: Do you recall the dates that we are talking about that you mentioned, that afternoon?

Bradley: It probably was December 28, around that time, in 2005.

Q: Why don't we pick up with that meeting at tomorrow's session?

Bradley: Okay.

[END OF SESSION]

3PM

Session Two

Interviewee: Yvonne R. Bradley

Date: March 16, 2011

Interviewer: Myron A. Farber

McGuire Air Force Base, NJ

Q: This is Myron Farber on March 16, 2011, interviewing, for the second session, Lieutenant Colonel Yvonne R. Bradley at McGuire Air Force base in New Jersey, regarding Columbia University's oral history of the Guantánamo Bay detention camp.

Colonel Bradley, before we continue, let me just ask you about of your feelings of the United States going into Afghanistan in late 2001. What was your reaction when, in 2003, Bush sent in the troops to Iraq?

Bradley: Again, let me express any opinions that I will provide are my opinions and do not express the opinions of the United States Air Force, the Department of Defense, or any other U.S. government office or agency.

With that said, my opinion going into Iraq was that I personally found it unnecessary. I was not quite sure what our goals or accomplishments would be. I knew that at that time that there was no direct threat to what I felt was U.S. interest from Saddam Hussein or from Iraq. I knew that with the no-fly zone and other missions that we had in the region, Saddam Hussein was pretty much well-contained and controlled.

Q: Now, with regard to Binyam Mohamed, you were telling about how you went there for your first visit to meet him. But at that time, Clive Stafford Smith had provided you with materials about him that he had gathered, by that time, over a period of a year or more, right?

Bradley: At least. I believe early 2005 was probably the first time he met Mr. Mohamed, and had met him at least one occasion, if not more.

Q: And had Smith filed a habeas corpus petition for Binyam Mohamed, do you know?

Bradley: If he had not before I had met Mr. Mohamed, he definitely did during that time of representing Mr. Mohamed.

Q: Now perhaps it is best, or easiest, if you could tell me what you knew of Mr. Mohamed at the time you went down to Guantánamo Bay, what you knew of who he was, what his background was, and what had happened to him since his arrest in Karachi, in April 2002.

Bradley: Everything I knew about Mr. Mohamed, or the very little that I knew about Mr. Mohamed, I should really say, I gathered from information that Clive had given me. I was thankful that Clive had had some meetings with him, had met with him, and had done some background, because everything I knew came from notes that Mr. Clive Stafford Smith had provided me, once he knew that I had been selected as military counsel for Binyam.

I knew at that point that Mr. Mohamed had family in the U.S., because Clive had spoken with the family, and gotten some background information. I also knew he was from Ethiopia, but was a UK resident. From the information that, again, I received from Clive's notes and background information on Mr. Mohamed, I knew that he had been rendered, had made claims and allegations—and I will say that at that point, that is where I thought they were, claims and allegations—of being abused, tortured, and rendered before he arrived at Guantánamo.

Q: What does that mean, “render”?

Bradley: Render means an individual is moved outside a legal system or lawful system from one country to another, often for—I am not sure how you would put it—treatment that is not authorized. It is often for unlawful purposes, whether it may be to hide that person out or to mistreat that person in some fashion. It is a way of moving one person from one jurisdiction to another by unlawful means, or means that are probably not approved. Normally when you move someone from one jurisdiction to another they are extradited, and you go through legal systems from one government, asking, and going through a system of moving or transferring that person for traditional means, or through the courts. Binyam was moved from country to country through means that were not the normal, judicial, or court means of transferring people from one country to another.

Q: You mean rendered by the United States government?

Bradley: Correct. The United States government was heavily involved in Mr. Mohamed being moved from Pakistan to Morocco—

Q: In this case, we are not talking about Australia rendering somebody to Uruguay. We are talking about the United States government doing the rendering.

Bradley: Correct.

Q: Did you ever come to learn that this rendering of people to other countries—and I gather this is generally people who were caught somewhere outside the confines of the United States, by the United States, and then rendered to another country—that this actually dates back to the Clinton administration? Have you ever heard that?

Bradley: I did later learn of where this extraordinary rendition came from, and that it was probably done before, most likely, but under the Clinton administration it became more widely accepted, from my understanding of its use and approval. It did not start with the Bush administration.

Q: And is there a satisfactory way of saying why this rendering would be done for the purpose of—I mean, apart from the process itself—for the purposes of what?

Bradley: Oh, probably trying to gather information more quickly, perhaps more effectively, than going through traditional means of trying to bring individuals into—I think it was done,

basically, for intelligence gathering, and for quick reactions to what may have been underlying terrorist concerns of the U.S., and protecting U.S. interests in those areas.

Q: Now, correct me where I go wrong here. Let me ask you a little bit about whether you knew it at the time or you learned it later, simply about Mr. Mohamed's background. He had, as you mentioned a moment ago, relatives in the United States. He had a brother and two sisters. Isn't that correct?

Bradley: That is correct.

Q: Right. Are they still in the United States?

Bradley: Yes.

Q: Are they American citizens, do you know?

Bradley: I believe two of them are citizens. One, I think, was working towards citizenship.

Q: He was born, you say, in Ethiopia.

Bradley: Correct.

Q: Do you know what year?

Bradley: I believe 1978.

Q: And his parents left Ethiopia with him.

Bradley: Correct.

Q: When he was a teenager?

Bradley: I think he was still a young child. I am not quite sure if as a teenager, but he was a minor.

Q: And they went to Britain.

Bradley: Correct.

Q: Now did the parents ultimately go to the United States? Because we have these relatives in the United States. These are siblings of Binyam Mohamed. I am little confused as to how some were in the United States, and he was in Britain.

Bradley: Well, from what I can recall is that initially the family fled to the UK, and then they went to the United States. At some point, the rest of the family stayed, but Binyam and perhaps

his father—I am not sure which parent—went back to the UK. Eventually, the parents, I believe, went back to Ethiopia, but Binyam ended up staying in the UK.

Q: I believe he arrived in Britain in 1994. At some point between 1994 and 2000 he converted to Islam. Is that correct?

Bradley: Correct. Probably around 2000, I believe he converted probably at the end of 2000, early 2001.

Q: What did he do with himself in Britain, do you know? Was he employed in any sense?

Bradley: Once he converted, he was a janitor at a mosque. He was going to school, but he was not really pulling the grades. He was, in many ways, a wayward young man, trying to go to school, trying to probably get his life together, who got into the drug scene and was a janitor. He was someone who was a young man, trying to struggle through life, and probably was not making the best decisions, even while he was in the UK.

Q: Where in the UK, do you know?

Bradley: I did. I don't recall the neighborhood, but it was in a section of London. Yes.

Q: So that if he is occasionally described as an electrical engineer that would be incorrect?

Bradley: He probably went to school, and he might have taken some electrical engineering courses. If I recall correctly, I think he failed most of his electrical engineering or science courses. It would be more adequate to describe him as a janitor and someone taking community college than it would be to describe him as an electrical engineer. That is disingenuous of the situation.

Q: But the biographical information that we just discussed, you pieced together over time. And of course, you do not have any reason to question that biographical information?

Bradley: No, I have confirmed that information.

Q: So here you had your first meeting with him. You chose the option of wearing civilian clothes there. You are meeting him for the first time, and as you say you met him in the afternoon, because Clive Stafford Smith thought he would smooth the way, so to speak.

Bradley: Absolutely, yes.

Q: So you go in there and you meet him. This is the first time you are seeing him, right?

Bradley: Yes, it is.

Q: How did he strike you? And how does it go? Did he say, "Oh my Lord, Yvonne Bradley, I am so thrilled to see you." I assume he knew you were coming, right?

Bradley: He knew I was coming because he gave Clive permission to come. I have to describe this in a couple areas that developed. One was my state of mind when I went in there. I was probably more terrified than Binyam may have been of me. You have to realize my mindset was, “Oh my God, I am going in here to meet a terrorist face to face,” and really believing he was a terrorist.

Q: Did you say, “believing that he was a terrorist”?

Bradley: Believing that he was a terrorist. He is the “worst of the worst,” and we have him locked up in Guantánamo. We have had him locked up for years. This man is going to go to trial. I am here to make sure that he gets a fair trial. But I am thinking, “If you have an individual locked up for this number of years—even after reading the charge sheets, which I thought were suspicious—this man had to have done something terribly wrong for my government, for the U.S. government, to hold him for this period time, and to be charging him in the first war trials since Nuremberg.” This had to be a bad guy. If you are going to make an example, you are going to put your best cases first. So this had to be the “worst of the worst,” because we were trying him as one of the first ten individuals in these military commissions.

My mindset, as an airman, as a U.S. citizen, as a lawyer, and as the government continued throwing around that term, the “worst of the worst,” was I was walking into a cell of a terrorist. I hate to admit that that was my mindset, but it was at the time. When I walked in there, I was probably terrified, thinking, “I am walking into the cell of a terrorist.”

You have to think of that mindset that I had. I had worked with death row people. I had worked with people who were serial killers and murderers. I had never been in fear of walking into a cell with one of my clients or going to a meeting with one of my clients as I was with Mr. Mohamed. My mindset walking in was, "I am walking into a cell of a terrorist."

Mr. Mohamed's mindset—and I could see it on him—was probably perplexed, and probably scared, but in a different way. I think he had no idea what was going on. I do not think he knew exactly whether this was some kind of game that was being played with him by the officials at Guantánamo. I had heard stories that the interrogators would come in and pretend they were lawyers, to try to get information from individuals.

I am not quite sure what was going on in Binyam's mind, but I could tell by looking at him that he just seemed extremely confused about what was happening. I think when I walked into that cell, because he did not really know what was happening, instead of him getting any assurance out of me being there, I think it took away from his trust of Clive, whether Clive was now part of some kind of game that was being played by the officials. It probably deteriorated the relationship between Clive and Binyam more than it did anything of improving any attorney-client relationship with Binyam, Clive, or myself.

In that first meeting, when I went in with Mr. Mohamed, I did not say a whole lot. I let Clive do a lot of the talking, because, that is, the attorney-client relationship was between Binyam and Clive. I sat there during the three or four hours I met with Binyam just watching this young man,

watching his body language, watching his gesture, watching his tone of voice, and watching everything about him, how he said things.

I saw a young man who was scared to death. It was almost the complete opposite of what I expected. I guess I went in expecting—even my concerns that this was a terrorist and walking into a cell with a terrorist—someone to be hard, mean, to the cutting edge. Everything about him, everything single aspect of how he reacted, how he said things and the way he said things, was just the total opposite of what I expected.

As I sat there during those three or four hours with him, I slowly began to realize how much of what I had been told, what I had read, what was happening at Guantánamo and how this was being portrayed was a lie. To me, the point was not whether or not the truth was being told about Guantánamo. I knew the truth was not being told. It was how much, if any of this, that I had heard or learned or thought about Guantánamo was accurate.

Even as I sat there, I went through a series of emotions—disbelief, anger, and confusion about really what was happening at Guantánamo Bay in those three or four hours.

Q: For the purpose of the military commission, you or someone like you had to have been appointed as a counsel for him. But was Clive Stafford Smith, a civilian counsel, happy to see you, too? Happy that you were joining him?

Bradley: Well, I think with Clive, there probably was initially some hesitation about why and who these military counsels were going to be, and whether or not we were going to understand issues, or whether we were going to just be part of the system, so to speak, and roll on with these cases, just to give it a face of legitimacy, by saying we provided them with defense counsel.

I think there was concern or hesitation with Clive, initially, before we met. As in, "Oh my goodness, the military is now just going to put these military defense counsels on the case, and slap these cases right on down the line, rubber stamp them through these commissions."

Q: Well, how about the idea of Stafford Smith sharing confidences with you? Was there ever any question that he was concerned about whether you are right there now, in the circle, and you could report things back to your superiors? Or be told to report things back to your superiors?

Bradley: I think, and I would hope, that any hesitation or concern that Clive had of me was probably answered and taken care of in that six-hour ride from Jacksonville to Miami before we got to Guantánamo. I think, probably at that time, he was doing some sizing me up, trying to figure out who I was, and whether or not I would be just rubber stamping or be someone who would be an advocate for Mr. Mohamed. I think also it may have given him some relief once he first met me to see that I was an African American female, and maybe having some understanding of the criminal justice system, and some understanding of Mr. Mohamed's situation, in that sense, of being a minority in a criminal justice or a military justice type of case.

Q: Do you know the term Camp Echo?

Bradley: Yes, I do.

Q: Is that where you met Mr. Mohamed for the first time? Was it Camp Echo?

Bradley: No, I think the first time I met Mr. Mohamed was in Camp Five. I think it may have been in Camp Five. I had met him at Camp Echo at some other point, but I think the very first time I met him was probably in Camp Five. I do not think that Camp Six was built while I was first down there. But I believe it was Camp Five. I know it was in a hard shelter building, and I remember—I am laughing because I remember during the first meeting they had a fan outside the door, because two guards had to be outside the door while Clive, Binyam, and I were inside the cell. It was not his living cell. It was a type of interview cell. The construction was so bad that you could hear conversations very clearly on the other side of the door where the two guards had to be at all times. They had to put a fan that blew loud, a big fan, so you could kind of mask the noise. You could still hear, which was ironic. You could still very well hear even with the fan blowing. I remember thinking, “You built this. How much money did we put into this prison?” We had to bring these big fans in to try to mask conversations between counsel inside his cell and the guards standing outside the cell.

I did not even think it was necessary that the guards were even standing outside the cell. They had to have two guards outside the cell. The cell was locked. There was nowhere I was going or Binyam was going at the time. They had the detainees shackled to a bolt on the floor by the ankles in the room. I do not know where the threat was and why it was necessary to even have

two guards outside the door. I had been in death row facilities in Pennsylvania, a couple of them, and never did you have to have the guard right outside the door in such a fashion. It was ridiculous.

Q: But Binyam was shackled to the floor.

Bradley: Correct. He was not going anywhere.

Q: Did he have a seat?

Bradley: He did have a seat. They would put him on a seat, on the chair, and then he would sit in the chair, and then there was an eye bolt on the floor cemented into the floor, and they would chain him, his ankle. I don't know if it was both ankles or just one ankle—I can't recall—at the time. But he was shackled and chained to the floor.

Q: And that was not to prevent him from attacking his attorney?

Bradley: Well, if he wanted to lean over, he could.

Q: They thought he might escape otherwise, is that it?

Bradley: I don't know what the purpose of that was. It may have been for our protection at the time, but even so, if that is what the reason was, I don't—

Q: And you had a little table, did you?

Bradley: I believe we had a table in front of us, yes.

Q: You make reference yesterday to attorneys' notes. I assume your client made some notes during that meeting, right?

Bradley: I did probably make notes during that meeting, yes. I was mostly, from what I recall, observing. I was just trying to understand this. I was just intensely listening to Binyam as Clive asked the questions. I probably would have taken some notes, or Clive would definitely have taken notes.

Q: Would a recorder have been allowed?

Bradley: Oh, no. Not unless it was the government's recorder, recording conversations.

Q: Now, if Clive took notes, what would have happened to those notes? He put them in his briefcase and went home with them?

Bradley: Oh, no. I know if Clive went in by himself as habeas counsel—and this is where things became very ironic—and took notes, but not as commission counsel because there was, I will not say confusion, but this was the fiction that Guantánamo caused with Clive. Clive had some

clients who were not in the commissions, he had filed habeas petitions for them—for any client that he represented on the habeas side, any notes he took during those meetings with his client had to be seized, wrapped up in an envelope, and censored, so to speak, for alleged classified information, before counsel would have them. They could only do that in the location in Washington, D.C., to get their notes back. If the notes were taken on commissions, if the client was a commission client, as Binyam was, I do not believe Clive's notes were taken during that time. I know my notes were never taken, because for whatever reason, there was a difference between habeas notes and commission notes.

Q: You mean taken by the government.

Bradley: Taken by the government and scrubbed for what could be released and what could not be released.

Q: Now, what did Binyam Mohamed look like when you first met him?

Bradley: A thin, tall, scared child. That was my first impression. He was scared. I remember in that first meeting when Clive would ask him questions—because I don't think I said much to Binyam other than hello—Binyam would always look over at me. He would just shift his eyes from Clive to me, back and forth, like still trying to figure out, "I am confused, I don't know what is happening here. Am I being set up? What is this about? Who is she?" He was almost like a scared puppy.

Q: But did he look physically in decent health?

Bradley: There was nothing that struck me that I thought he was in poor health. The reason I say that is because I saw when Binyam went on hunger strike, and I saw him in poor health. That was years later. I know how he looked now and when he was in poor health. At that first meeting, he looked healthy, as far as that is concerned.

Q: Now, let me go back. We spoke a little bit before about his life up to 2001. Now, whether you gathered at the first reading or subsequently, let's turn to his movements into the Middle East from London. As you understand it, did he travel in 2001 to either Afghanistan or Pakistan?

Bradley: He went to Afghanistan, yes.

Q: Around when? Have you any idea?

Bradley: Probably about May 2001.

Q: Before September 11.

Bradley: Way before September 11.

Q: And do you know why he went? Did he go alone, do you know?

Bradley: As far as I know, he went alone. Binyam has always maintained—and this is public knowledge, he has spoken about this. He has told me the same consistent story from day one, when he was talking to Clive about things that happened, what was in Clive's notes and consistently throughout the years in which I was representing him—that he went to Afghanistan because when he was in London, he was trying to get himself cleaned up. He had converted to Islam. He was trying to kick his drug habit. He found himself in the same neighborhood, around the same people, where he was using drugs. It was suggested to him that because you are a new convert, and you want to get away from the scene in London, you really should go to an Islamic nation. Afghanistan, allegedly, at the time, was an Islamic state, the ideal Islamic state, with the Taliban and the Islamic rules. It was suggested that would probably be a good place for him to go, to get away from the drug scene, and go to a place where his new faith could be exhibited.

Q: Have you ever heard it said that he has said, or that he said, perhaps even to the government, that he went there, or even if he did not go there, once he was there, he took up weapons training, under the instruction of either the Taliban or Al-Qaeda for the purpose of fighting the Northern Alliance?

Bradley: Yes, I know there are various statements out there. It has never been clear, and this is the problem when you torture people, and you get information. I have never had any information that was clear, that Binyam did not—

Q: I beg your pardon, for the purpose of fighting Muslim insurgents in Chechnya. I'm sorry. Not the Northern Alliance.

Bradley: Right. And it would not matter whether it was the Northern Alliance or Chechnya, because all those statements and comments that were made were in statements after Binyam had been tortured and abused.

Q: After.

Bradley: Correct. From day one. When he got picked up in Pakistan, the abuse started.

Q: I would like to do that in a linear kind of fashion. So he arrives in Afghanistan.

Bradley: Yes.

Q: At some point in April of 2002, he is arrested at the airport in Karachi, Pakistan. Can you fill in—first we got him in Afghanistan, no matter what he is doing.

Bradley: Correct.

Q: Now it is in Karachi Airport and he is arrested. Why is he going from one place to another?

Why is he at Karachi Airport?

Bradley: Whatever Binyam was doing in Afghanistan—and only Binyam knows what the heck he was doing in Afghanistan—I always said he was at the wrong place at the wrong time. He was in Afghanistan prior to the war in Afghanistan. He was in Afghanistan about May 2001.

In October 2001, whenever the war started in Afghanistan, when all hell broke loose, anyone who was not an Afghan was trying to get out of Afghanistan. Once the bombs start dropping, it was not as if you can catch a Greyhound bus to the nearest airport and get out. It was during that time when a lot of people were in Afghanistan who were not Afghan citizens, who were not Taliban, who were not Al-Qaeda, were trying to get out of the country. You had to get out of the country by any means, and you were not flying from Afghanistan to any part of the country after the war started.

The only way out was through Pakistan. Even if you wanted to get into Pakistan, it was not as if you could just get on a plane, because probably one of the few ways out for many people once the war started was trying to get out of Afghanistan to begin with, and to get to Pakistan. Once the war started, it took time for Binyam to try to get the heck out of Afghanistan, get to Pakistan, and try to get home. Leaving from Karachi, it is not as if it's the flight from LA to Philly that you can get, and that there are several flights leaving a day. He was trying to get out of a bad situation, being at the wrong place at the wrong time, and get home.

Q: When he initially went to the Karachi Airport in April 2002, he either had a forged or false passport, or the passport of someone else the first time. Is that not correct?

Bradley: That is correct.

Q: But why? And where was his own passport?

Bradley: I think part of it was being a young kid, that when he went to Afghanistan—remember, he was from Ethiopia, came to the UK, came to the U.S., and getting visas and passports in that type of situation—instead of waiting, probably, for a passport, for his passport, to get his paperwork correct, he left Afghanistan on his own, using someone else's passport.

Q: I mean, originally?

Bradley: Probably originally, yes. I mean, this whole thing that he was making passports and false documents, again, was a fiction of the U.S. When he was trying to get out of Pakistan and go back to London, he was picked up with a false passport. Of all the things that is in those charges, that is probably the only thing that has some accuracy, that he was stopped at the airport with a false passport.

Q: Where would he have gotten his passport?

Bradley: I'm not sure where he would have got it. He could have got it from a friend. Who knows where he got the passport?

Q: You mean, it is conceivable that he came into Afghanistan without his own passport?

Bradley: Yes. He probably used the same passport that he had when he went in. It was not the situation where the U.S. is saying that he was here with a bunch of passports. Whatever passport he probably used when he left the UK was a passport he was probably trying to use to get back, to come back home.

Q: Now on April 4, 2002, he was arrested with that passport not matching him at the Karachi airport, and the next day, he was released. Then a week later, on April 10, he is back at the Karachi airport, trying to get back to London and he was arrested again.

Bradley: Correct.

Q: Now at this point, he is arrested by, I assume, the Pakistani authorities.

Bradley: That is correct.

Q: And he is held by the Pakistani authorities.

Bradley: That is correct.

Q: As you understand it, for how long was he kept in Pakistan and under what circumstances?

Bradley: He was picked up about April 2002. I believe he stayed in Pakistan until about July 2002. But the ironic, or the interesting thing about his stay in Pakistan, is that probably within two or three days, maybe a little longer, the FBI [Federal Bureau of Investigation] was quickly involved in his interrogation as to why he was in Pakistan. Even though he was picked up by the Pakistani authorities, the FBI quickly became involved in his interrogation.

Q: In Pakistan?

Bradley: In Pakistan.

Q: To your knowledge, was he physically abused in Pakistan?

Bradley: Yes, in Pakistan. The abuse started right away. It just got worse when he, later on, got rendered to Morocco. The abuse and the threats, the sleep deprivation, started in Pakistan. There is nowhere on Mr. Mohamed's journey, from when he was picked up in Pakistan to his final release in February 2009, that he was not somewhere either emotionally, psychologically, physically abused or tortured. It was just a matter of degrees.

Q: And you are confident that the interrogation of him in Pakistan by the Americans was by the FBI, not by the CIA [Central Intelligence Agency]?

Bradley: I don't think that the Americans—whether FBI, CIA, or anyone else—ever physically touched him. It was abuse by proxy. They knew or directed, in some fashion, Mr. Mohamed's

treatment. If the FBI went in there and told the Pakistanis to lay their hands off him, the Pakistanis would have laid their hands off. The FBI went in there and said nothing, or suggested you can do whatever you want. They knew what was going to happen. It was not the Pakistanis who moved Mr. Mohamed from their country to Morocco.

Q: But when you use the term FBI, I take that to mean that you know it is the FBI, not the CIA, or some other DIA [Defense Intelligence Agency], or any other agency of the American government. I just want to keep them separate if we can.

Bradley: No. Mr. Mohamed said, on many occasions in speaking with him, that the individuals identified themselves as FBI agents. When I initially heard the story, I told Binyam, "Are you sure it was not CIA?" I said, "What is the FBI doing in Pakistan in 2002?"

He said, "No, they're the FBI." I thought Binyam was incorrect. I thought there was no way the FBI would be involved.

The first time I realized the FBI was involved, or had confirmation, was during the Jose Padilla trials. Sometime later I went down to Jose Padilla's trial in Miami because Jose Padilla and Binyam Mohamed were alleged co-conspirators on this dirty bomb. During that trial, an FBI agent took the stand and confirmed that the FBI was in Pakistan during that time period because the CIA just did not have the numbers. There were FBI agents running around in Pakistan during that time period.

I had just thought Binyam was incorrect about who he spoke to, because I kept saying it was CIA—but when I heard that testimony, I realized that when Binyam said it was the FBI, it was the FBI.

Q: Now, he was in Pakistan until perhaps July of 2002, when he was sent or rendered, as you put it, to Morocco.

Bradley: Correct.

Q: That means that he was put on a plane and flown to Morocco, right?

Bradley: Well, you said put on a plane. We are not talking about flying first class. We are talking about someone shackled, hooded, mistreated, mishandled, pretty much like you would do to a kidnapped individual, and put on a plane. He was probably drugged, so he could not orient himself. He was sent to Morocco.

Q: Do you know who made the decision to put him on the plane and render him to Morocco?

Bradley: I would put it this way. It would not have been the Pakistanis. I don't think they were calling the shots at that point. We were told by certain government officials that the gloves were off.

Q: You mean, you were told later.

Bradley: Yes, at some point. That is how individuals were picked up, and that is how they were treated once they were picked up. I can only conclude that the only individuals who had been calling those type of shots would have been the U.S.

Q: CIA?

Bradley: CIA, FBI—some agency of the U.S. government.

Q: It really would not have mattered to Binyam Mohamed whether it was CIA or FBI, I take it.

Bradley: No. To him they were all Americans.

Q: And you describe how he was, as we would understand it generally, kidnapped, wrapped up, et cetera, put on perhaps a Jeppesen Dataplan plane?

Bradley: Correct.

Q: And flown to Morocco. Now, why do you think that was done? For what purpose?

Bradley: This is my opinion. I think it was done during that time period because they were not getting intelligence. They were not getting any information. The few people that they had, they had to make it look like we were winning this War on Terror. We were picking up individuals.

We were making progress. Even when you had the nobodies, which MI5 had said when they had interviewed Mr. Mohamed in Pakistan, you had to make it look like we were advancing in our fight against this so-called War on Terror.

Q: But of all the people rounded up in Afghanistan, Pakistan, and elsewhere in the world at that time by the U.S. authorities or their allies—functionaries—why Binyam Mohamed?

Bradley: That is the million dollar question. Why Binyam Mohamed? And that is the scary thing, because if it could be a Binyam Mohamed, it could be a Yvonne Bradley next. That's how scary this is because this guy was never a threat to U.S. interests or a threat to anyone. This is the type of individual who, if you pick them up someplace in Afghanistan or Pakistan, you wonder why he is there and you get whatever intelligence you think the individual may have, but this guy was never a threat. That is the million dollar question. Why Binyam Mohamed? I think a lot of it was poor intelligence, people running scared, and trying to make—yes, that is the million dollar question.

Q: When he was rendered in July of 2002 to Morocco, do you know whether, at that time, the American authorities had arrested and spoken to a man named Abu Zubaydah?

Bradley: Yes, they had.

Q: Already?

Bradley: I believe they had Abu Zubaydah probably around the same time period, maybe slightly before. Either slightly before his arrest, or slightly after Mr. Mohamed's arrest, they probably picked up Abu Zubaydah. I think Abu Zubaydah was probably a key to this on who got picked up.

It probably comes down to—if the U.S. government is going to be honest—a lot of bad intelligence and connecting dots that did not need to be connected, and the use of torture. This is just a theory for me. I think when they picked up Abu Zubaydah at some point, close to when Binyam was arrested, at least when Binyam was in Pakistan, and they abused and waterboarded Abu Zubaydah—because they had names of individuals. They were probably giving names of individuals to Abu Zubaydah, and Abu Zubaydah was probably weaving whatever story, whatever information that the CIA wanted him to weave, after being tortured and waterboarded.

As I said, I believe dots were being connected that should not have been connected, and there were people being thrown underneath the bus who should not have been thrown underneath the bus. I think Mr. Mohamed is not unique in that, because I think a lot of people, unfortunately, got caught up in the same type of nonsense. When you read Binyam Mohamed's original charge sheets, that is why you see all the names of these alleged top Al-Qaeda officials that Binyam could never have connections with. I think Abu Zubaydah's weaving a story that the CIA, the FBI, or whoever else was involved with Abu Zubaydah wanted to hear to make sense of the people they had picked up, and the names that they had had through their limited intelligence at that point.

Q: To the extent that you know it, who was Abu Zubaydah?

Bradley: Abu Zubaydah, as far as I know, was an individual who was in Afghanistan, ran a couple of madrassas, and he held himself out, probably, as someone high in Al-Qaeda. My understanding was that no one in Al-Qaeda ever thought Abu Zubaydah was really anyone in the organization.

Q: But he was, as you say, arrested and treated very roughly and waterboarded eighty-three times. And you think that some of the information that he gave out could have included throwing out the name of Binyam Mohamed?

Bradley: Correct, or even giving the name of Binyam Mohamed. I think they already had Binyam. They had his name. I think probably at some point, they were giving Abu Zubaydah different names, and Abu Zubaydah was just throwing people into whatever stories that the CIA wanted to hear. Binyam Mohamed probably did a lot of the same things once he was tortured, just telling them whatever they wanted to hear to make it stop—whatever they thought was what the Americans expected, or the CIA expected, I should say, or the FBI, just to create a story to make the abuse stop, to make the torture stop.

Q: But is it your understanding that when Binyam Mohamed, on April 4, 2002, in this first attempt to leave Karachi for London, that scheduled for the same flight, or attempting to get on the same flight, was one Jose Padilla?

Bradley: I don't know if that's ever been established that they were trying to get on the same flight. It's probably very much established that they were probably trying to get out of the one airport that had been open around the same time period. I think if any of that is established, it is coincidental. As I said, it is not as if there were many flights trying to get in and out of Karachi back to anywhere. From my understanding, every flight from Karachi had to go to Zurich. There were no direct flights from Karachi to London. There were no direct flights from Karachi to Cairo, which I think Jose Padilla was trying to go through.

You're talking about one airport near a country that is at war and everyone is trying to get out. The flights are few and far between. It's not unimaginable that sometime, during the same time period by coincidence, if Jose Padilla was trying to get out in the same time period, that that necessarily connects Binyam and Jose Padilla. That was the problem with this intelligence. When I said people were connecting dots, the dots never, never connected. Jose Padilla and Binyam Mohamed are two different individuals on the same flight.

Q: Did you ever ask Binyam Mohamed, "Did you ever know Jose Padilla?"

Bradley: I cannot discuss anything that has not been public yet, but there is no evidence that these two individuals knew each other. At Jose Padilla's trial, they never charged him with the dirty bomb. They never mentioned Binyam Mohamed's name. Binyam Mohamed has never been connected with Jose Padilla other than on a charge sheet in the military commissions.

Q: Before Jose Padilla's trial, before these charges, before Jose Padilla's trial—. Now, has there ever been any evidence that that Binyam Mohamed knew Abu Zubaydah or Richard [C.] Reid?

Bradley: No. It is fantasy. It is absolute fantasy that he knew Khalid Sheikh Mohammed, Richard Reid, Jose Padilla, or Osama bin Laden. His charge sheet reads like a who's who of alleged terrorist individuals. It is nonsense.

Q: As you mentioned yesterday, the charge that was initially laid out for you to see, and to be presented for trial at the military commission, alleges conspiracy.

Bradley: Correct.

Q: And that Binyam willfully and knowingly joined in enterprise that included bin Laden himself, Ayman al-Zawahiri, Abu Zubaydah, Jose Padilla, even Khalid Sheikh Mohammed, the so-called mastermind of 9/11. Then, it details specifics for three or four pages of various places where Binyam was in the company of Osama bin Laden, in the company of Richard Reid, that he was directed here and directed there, that they were plotting to create a radioactive dirty bomb for explosion in the United States, that Khalid Sheikh Mohammed was giving them instructions on how to do things, that he was giving them money, and this was all done before they tried to get out of Karachi on an airplane in 2002.

Are you saying that this, as far as you know, is all poppycock?

Bradley: Yes. It was all based on statements Mr. Mohamed made after he was tortured.

Q: Let me go back to that, then. In July 2002, he arrives in Morocco. Now, is the bluntest way to put this that he was tortured in Morocco?

Bradley: Yes.

Q: No question about it?

Bradley: No question about it. The most horrendous physical torture happened in Morocco.

Q: Done by Moroccans?

Bradley: Done by Moroccans, at the bequest of U.S. officials.

Q: Did you ever come to learn whether any U.S. or UK officials were present in Morocco during the time he was tortured? Or actually at the torture sessions, or supervising them, or aware of them, or what happened?

Bradley: From what I recall, I don't know if Americans were in the room. I am trying to recall the conversations I have had with Mr. Mohamed and who he described in the room. I know the Moroccans were in the room. I was always amazed by the details that Mr. Mohamed could remember about names and things that occurred. It doesn't mean Americans were not in there. I

don't think the Americans were ever in the room, but I think he always had a sense that they were heavily involved by the questions that were being asked.

No, I don't think the Americans, again, ever physically touched him. I think they were always the Moroccans, but it was always the Americans who were in control of the situation.

Q: The Moroccans had no particular interest in this man, did they?

Bradley: None whatsoever.

Q: What did they do to him?

Bradley: Besides the continual sleep deprivation and physical threats to his life, the physical abuse was probably one of the worst physical abuse that has been publicly told about Mr. Mohamed at Morocco. At some point when he was there, they would come in, strip him naked, expose his genital areas, take a razor blade or a scalpel, and make small cuts on his penis, just several small cuts, and they would let him heal, and ask him questions, and come back, and make some more small cuts. Then they would bring a doctor or someone in who would heal it up, and then in a day or two, they'd come back and do the same thing. This happened for a long period of time.

It is hard for me to talk about this, even though it did not happen to me. To represent Mr. Mohamed and to have a grown man sit there and tell you about torture, and the physical abuse of

that nature that he went through. It is even hard for me to—I mean, at the time when I was doing this, I guess because I was in a battle zone, so to speak, of fighting for Mr. Mohamed, I could deal with it a little bit better. But even now, just to talk about the stuff that I know that happened to him, and once I realized it happened to him, and knowing that my government was heavily involved in the treatment of Mr. Mohamed, it is still hard for me to express.

Q: They did it over a period of time, did they not?

Bradley: Months.

Q: Months.

Bradley: At one point, they even told him when they were doing it that they might as well just cut it off, cut off his penis, because he would only breed more terrorists.

Q: Now, did he not make reference, at one point, to an American woman being there?

Bradley: I think he said it was a Canadian, we believe. I know at one point when they were transferring him from Morocco to Kabul, to what they called the dark prison, there were pictures taken of him, and pictures taken of his genitals. The female who took the pictures said, “Oh my God,” or something of that nature. “Look at that.” She was speaking in reference to what she saw, as far as the photographs of Mr. Mohamed's genital area at that time.

I think that was the American woman. At Morocco, I believe Mr. Mohamed said there was a Canadian woman who came in, and pretty much was trying to persuade him to cooperate and saying that things would go easier on him if he did cooperate.

Q: Had he not said somewhere that his interrogators seemed to have some information from his life in Britain that could only have come through the UK authorities? Does that make sense to you?

Bradley: Yes, that does make sense. MI5 was involved as early as in Pakistan, when he was picked up in Pakistan, and before he was rendered to Morocco. Two MI5 agents came in and spoke with Binyam. To give MI5 their credit, because when they came in and spoke with Mr. Mohamed, even though they knew that he had been sleep deprived, he had been physically abused, he had been threatened, after they had talked to Binyam, they had made a comment that “Hey, this guy is a nobody.” It was almost as if they said “Why are you holding this guy? Get whatever intelligence you can from him, but why, really, are you holding him? He's not Khalid Sheikh Mohammed. He's not bin Laden.”

Even MI5 was confused as to why the U.S. was holding him as long as they did. But they at least wanted to get intelligence from him, which I think the U.S. should have done—gotten the intelligence this individual may or may not have had. MI5 was involved early on in Pakistan, and had made comments to Binyam, something of the nature, “Well, you're going to want a lot of sugar in your tea,” or whatever drink they gave him, “because you're going to go somewhere where you're not going to be able—where you're going to need it,” which was Binyam's first clue

that he was probably going to get rendered. After MI5 left Pakistan, they wanted to interrogate Binyam again to get some more intelligence from him again.

Q: In Afghanistan?

Bradley: No. They still thought he probably was in Pakistan. This is when he was in Pakistan. When they came back to ask the Americans if they could interview him again, the Americans said no, but MI5 really wanted to ask Binyam some more questions. When the Americans said no, they passed the Americans notes, or letters, or information—“Well, can you ask him some of these questions?”

When Mr. Mohamed was in Morocco, the Brits tried to find him. They could not find him in Pakistan. They had no idea where he was, so they had to know, at least at some point, that he had been rendered. They knew the Americans still had him because they were passing, at least, information on to the Americans that they wanted them to ask Binyam.

While Binyam was in Morocco and when he was being asked questions, some of the questions that the Americans were asking had to come from MI5 or from British authorities, because they were asking him questions about who his kick boxing instructor was and about people who he lived with in the UK. These were questions that only MI5 or the British authorities would have known, because it was that detailed about where he was in London, where he lived in London, where he went to mosque in London and things that the U.S. would have had to get from MI5 or from British authorities.

Q: While he was in Morocco, apart from what was done to him, as you described a moment ago, he was routinely physically beaten, punched around, tied to a wall with his feet off the floor.

Bradley: In the strappado position with his arms above his head. Sleep deprivation, drugged, not given food at times, squalid conditions—a very unpleasant situation.

Q: But when you say that the Americans, for example, were given this information by the Brits to ask him questions about, that raises further the question of whether the Americans are there in Morocco. Who is actually asking him the questions? Moroccans? Americans?

Bradley: That's a good question. I'm not quite sure now. I was always under the impression it was probably a combination of the Americans and maybe the Moroccans. I know it was the Moroccans doing the physical abuse. As far as the questions, I believe the questions were coming from U.S. authorities. I think the interrogation was coming from U.S. authorities.

Q: In which case, is it a fair conclusion that there were U.S. people there, and that they knew what was being done to Binyam Mohamed physically?

Bradley: Oh, you would have to know what was being done. You cannot close your blind eye and say, "Well, we had no idea." Even MI5 has come out and—at one point when we are trying to get discovery, even from the UK hiding—well, I won't say hiding—and not disclosing

information that they knew that Binyam was not being treated in the best manner when he was in Pakistan.

Q: From Morocco, he was taken not directly to Guantánamo Bay, but to a prison called the dark site?

Bradley: The dark prison.

Q: The dark prison. Back in Afghanistan.

Bradley: Correct. In Kabul.

Q: Right. Have you ever understood why he was taken back there before being sent to Guantánamo Bay?

Bradley: Who knows why he was there. He was taken to Kabul and to Bagram. He was in two other sites before they took him to Guantánamo.

Q: In summary terms, how was he treated in Afghanistan?

Bradley: Right, no, in Afghanistan. I always thought his worst treatment was in Morocco, because it was such physical and such brutal treatment. He would say that the worst treatment was in Kabul, in the dark prison. It was not so much the physical problems in Kabul; it was the

psychological abuse. They called it the dark prison because they kept the detainees in pitch black darkness for twenty-four hours a day, where it was so dark they could not even see their hands right in front of their face. There would be loud, blaring music, different rap music, different rock and roll music, just blaring twenty-four hours a day in this dark place. Binyam has publicly stated that is probably where he probably really lost it the most, in this constant psychological abuse, being in the dark, with the loud music, and still being interrogated during this time, even though he was not so much physically abused at Kabul.

They would allow them to defecate on themselves. What they were given to eat was horrendous. They were given a bucket to defecate in. They were in a small cell, and they were in this pitch black. That type of abuse, he said, was worse than physical abuse that he went through. Because he did heal from his physical wounds, even from Morocco. But the psychological edge of it that is always in his head and he is always being reminded of it.

Q: Now, from there he was sent to Guantánamo Bay.

Bradley: He was sent to Bagram for a period of time, and then Guantánamo.

Q: He arrived in Guantánamo Bay in September of 2004. Now you met him, as you say, just after Christmas in 2005, and you had that meeting with him. In your career in the service, before your involvement in this case, had you ever heard the term "rendition" or understood what it meant?

Bradley: No.

Q: So you have this meeting, and there is this military commission with these charges, and as we discussed, with all these people he supposedly had been involved with, and it was going to go before a military commission. When you spoke to Colonel Sullivan, he didn't really know too much about how the military commission was going to go. Were you picking up some information about what a military commission is and what the rules are?

Bradley: No. It was still a mystery. Even as we were going to go into our first hearing, the whole thing was still a mystery as to how these trials were going to proceed. I was operating, and I think everyone was operating, pretty much by the seat of their pants.

Q: Well, but nonetheless, you are going to go into a room for a hearing? That is the military commission, right? They are having a hearing, right?

Bradley: Correct. In my mind, I was just preparing myself that this is like a court. I have been in courts many a time, so in my mind, I was preparing this to be a court hearing of some nature. I did not know what the rules were, or the parameters, or how it was going to operate. It was going to be a court hearing of some nature.

Q: Colonel Sullivan, was he in Washington, or was he down there in Guantánamo Bay?

Bradley: He was in Washington, but he would always come down for all the hearings. He was our chief defense counsel. He was actively hands-on.

Q: Well, he must have said to you, "Look, Yvonne, here's the rules."

Bradley: Oh, yes. "Here are the rules as they were published yesterday, and here are new rules as they are publishing them now." That is how crazy it was. They were writing the rules pretty much on a day-to-day basis.

Q: Do you know when these military commissions were authorized? Did you know then when they were authorized?

Bradley: I didn't know then when they were authorized. I'm even trying to think now when President Bush signed the—I think that was in 2004 or 2005. I'm not quite sure when it was.

Q: But that was in November of 2001.

Bradley: Okay.

Q: Now at that time, under military commission law, you could be held incommunicado indefinitely, as Binyam was, was he not, until Clive Stafford Smith came into the picture, after the court decision in *Rasul*? You could be held incommunicado. You were not presumed innocent. You could be sentenced to death if convicted, even with a split verdict. Your guilt did

not have to be proven beyond a reasonable doubt. There are no guarantees of due process protection or judicial review. The only appeal could be to the president or the secretary of defense, and secret evidence was permitted without being disclosed to the defendants, and hearsay evidence, and coerced testimony only was admissible. You had no right to remain silent. I mean, didn't somebody say, "Yvonne. Here are the rules"?

Bradley: No.

Q: "Here is what President Bush signed"?

Bradley: Yes, well, originally, there wouldn't even have been commissions if it were not for people like Clive and Joe Margulies and other individuals who took the forefront. There wouldn't have even been commissions. They didn't even want hearings of any nature. The rules I was trying to obtain were, "Okay, what are the rules when we go into the commissions? What are the rules of evidence?" We were slowly learning that, yes, hearsay evidence can be used, and evidence gained by torture can be used, and we said, "Who is making up these rules? When did the Constitution die and these Mickey Mouse draconian rules come into place?"

Q: On or about April the 6th or 7th, perhaps the 6th, of 2006, three months or so after you have met Binyam Mohamed for the first time, there is a hearing, right?

Bradley: Correct.

Q: Now, just describe it for me. You go into a room, right? Who is there? This is a military commission hearing on Binyam Mohammed's case, right?

Bradley: Correct. From what I can recall, there were several issues. The biggest concern I had, the biggest issue that arose, was the whole organization of the military commission on the defense side. There was a conflict of interest. I remember us talking before we went into the hearing in April—us being Clive, Joe Margulies, who had joined the defense team by then, and myself—on how to deal even with the issue of counsel.

One of the issues that everyone was dealing with, on every single commission case, was this whole thing on counsel because none of the detainees trust the counsel. They definitely did not trust military counsel. Most of them said, “If you are going to put me through the system, I would rather represent myself than trust these individuals that I don’t know, who wear the uniforms of the individuals who are holding me captive. Now you want me to come in and trust these attorneys that you have thrust upon us?”

The issue of counsel was always one of the biggest issues. It was going to be a big issue in our case as well. You have to realize, at that point, I had met Mr. Mohamed maybe two times, once in December, and then just shortly before the trial in April. He didn’t know me from a can of paint, so to speak.

Going into the hearing, one of the issues that I had raised and had concern with was my conflict of interest in representing Mr. Mohamed when the Office of Military Commission Defense—all

the military defense counsel were representing individuals who were pretty much co-conspirators of each other—could properly represent individuals with such a complex conspiracy, and how the office could represent all these different defendants who pretty much pointed fingers at each other.

My concern when I went into the April hearing was raising my issue on the conflict, and having that issue be taken seriously by the presiding officer at the hearing, the presiding officer being what they call a judge at the hearing. I knew by going in with my alleged motion on the conflict of interest that if they give credence to my motion, that it should have, and would have, ultimately changed even the way the Office of Military Commissions has been established, and how counsel was being assigned on each of these commission cases.

Q: Well, in fact, at that time, Binyam Mohamed had indicated that he did not want you to represent him. He didn't trust you because, "You were under orders to be my enemy."

Bradley: Correct.

Q: Well, so what are you really asking? In this room is a panel of officers running this military commission?

Bradley: No. At this point, this was more like pretrial hearings. There are no members. It was just the judge who was going to hear motions and go through pretrial matters. It was the

presiding officer or the judge, Binyam Mohamed and defense counsel, the prosecution, and then the audience. This is really to take his guilty plea and to go through pretrial.

Q: Like an arraignment.

Bradley: Arraignment. It was an arraignment. Going in there, Binyam did not want—none of the detainees really wanted military counsel to represent them. They wanted to represent themselves. But military counsel is being forced to represent them because the rules are that they had to have military counsel.

Q: Now the presiding judge of the hearing was a Colonel [Ralph H.] Kohlmann, wasn't it?

Bradley: Correct.

Q: You say to Kohlmann, you've got your reservations here. Did you actually characterize it as an ethical dilemma?

Bradley: Yes, early on. The way the military does their proceedings, they have what they call a script. It was an actual script of what you go through, what each party will say, because they want to make sure all the significant information gets on the record. Early on in the proceedings, on the script, there is a part where I have to say that I represent Mr. Mohamed.

When I got to that point, I did not say that I represented Mr. Mohamed. I had stated early on that there was a conflict of interest, that I could not say that I would represent Mr. Mohamed or could represent Mr. Mohamed until this court resolved my conflict of interest. The court knew very early on that there was a conflict. I had raised the issue verbally to the court prior to the hearing and then put it on the record for during the hearing. Also at that point, when I made that comment on the record, I was the only defense counsel at the table. Mr. Mohamed did not want to be represented, and Clive and Joe were in the courtroom but in the audience.

I was the only person at the table when I informed the court that I thought there was an ethical dilemma and a conflict here for me representing Mr. Mohamed, as far as I was concerned. Mr. Mohamed did not have representation at the time, and the rules would not allow him to represent himself, and the court needed to be resolve what was going to be a concern and conflict with now Mr. Mohamed being without counsel in my situation.

Q: But wait a minute, he had Clive Smith and Joe Margulies.

Bradley: The rules didn't say that he had to have civilian defense counsel. The only thing the rule says is that the member had to have military defense counsel. There is no way to operate a commission without military defense counsel.

Q: Along with civilian counsel, or—?

Bradley: No. The way the rules are written, you cannot have a military commission hearing unless there is a military defense counsel.

Q: In addition to civilian counsel? You can also have civilian counsel?

Bradley: You can also have civilian counsel. You can run the military commissions with just military defense counsel. You can run the military commission with all military defense counsel and civilian counsel. You cannot run a military commission with just civilian defense counsel.

Q: You had already raised the issue, and you are saying this again to Colonel Kohlmann, right?

Bradley: I am making it very clear to Colonel Kohlmann that there is a conflict.

Q: And so what does he say to you?

Bradley: He tells me to move on. I was shocked, because normally when you raise motions, whether they are verbal motions that are brought to the court's attention, or whether they are written motions, the court will take your motion under advisement, either have you call witnesses in support of your motion, or to rule on your motion one way or the other under the law, and then render a decision.

Colonel Kohlmann's attitude was, "I don't see it as a conflict. I don't believe there is a conflict, and I'm ordering you to move on." Giving an order, a military order, does not resolve a legal issue of a conflict.

Q: That was your feeling.

Bradley: No, it was not my feeling. I had a twenty-page opinion from the top expert in Pennsylvania on the Pennsylvania disciplinary court that this was an obvious conflict. I had an ethical duty, as an attorney, to raise this conflict and bring this conflict to the attention of the court, and expect a proper ruling from the individual sitting as the presiding officer on the hearing.

Q: As a military lawyer, are you subject to the ethical demands of civilian lawyers?

Bradley: Well, under the military commissions, I was under two sets of rules. I was under my own state rules of Pennsylvania—

Q: Civilian?

Bradley: Yes.

Q: Even though you are a military lawyer?

Bradley: In such haste, they wrote these rules—the rules under the military commission—and they clearly stated in both my appointment letter and in the rules that military counsel were subject equally to both their own state laws as well as the laws of their individual military rules.

Q: When you say state, you mean state civilian.

Bradley: Correct. My license to practice law is from Pennsylvania.

Q: You mean you felt that you also had an obligation to perform ethically as a lawyer because you are a member of the Pennsylvania bar?

Bradley: Exactly. Rules stated I had to abide by both Pennsylvania law and my service's rules.

Q: Well, surely Colonel Kohlmann understood that, right?

Bradley: Yes, he did, I understand it. I think he understood it to the point where if this prevailed, they may have to redo the way they were appointing defense attorneys, and having all the defense attorneys work in one office, and have them all representing clients who had conflict of interest in the clients we were representing. Yes, I think Colonel Sullivan understood clearly what—

Q: Sullivan or Kohlmann?

Bradley: Both. Colonel Sullivan, the chief defense counsel, understood. I think, in my opinion, Colonel Kohlmann had an agenda, that he needed to move on with it, and my issue of raising a conflict was not going to stop that agenda of arraigning Mr. Mohamed.

Q: Well, so he said to you, "Move on"?

Bradley: He told me pretty much to move on initially and that we would get to that issue later.

Q: And?

Bradley: When we got to the issue later, we hit a brick wall. At one point, I told him, "I clearly cannot represent Mr. Mohamed," because he had not ruled on my motion of a conflict. That is when, at some point, he made it clear to me that he was ordering me to move on.

Q: He was a full-bird right? He was a colonel.

Bradley: He was a full-bird colonel.

Q: And you are a major.

Bradley: I was a major at the time—which he made clear also on the record, that he was a colonel, I was a major, I understood what an order was, and I violated the order at my own peril, pretty much quoting the Uniform Code of Military Justice language.

Q: Right. Well, that would not scare a tough bird like you, right?

Bradley: At that point, once I realized I had raised the issue, and I had a presiding judge—an officer—who was going to just ignore the issue, I realized then and there, if I had not realized before, that this was going to be such a railroad—that I was not going to allow myself to be part of a railroad. If they wanted to railroad Mr. Mohamed, that was fine. I was not going to jump on that train and be part of it.

I realized that these trials will be no more than show trials, and no more than pretending we would give people hearings, and knowing, at that point, that when he said to me, “I am a colonel, you are a major, you violate the order at your own peril,” I knew at that point that he was threatening me, and that if I didn’t do what he said, that there would be consequences to my actions.

I recall at some point leaning over to Clive, who was now at the table, saying to him, “He is going to get me for violating an order,” and that we needed to take a break and talk about how to proceed with this.

Q: Well, didn't you at some point take the Fifth Amendment?

Bradley: I did. I think after we took the break—Clive and I and Joe—we gathered ourselves together, to realize that I felt, and I think they felt as well, that Colonel Kohlmann was

threatening me. That is a threat, when you tell me you are ordering me from the bench to do something which I think is an ethical violation.

I felt I was in a crossroads of, if I continued on, I felt that I was violating my bar's code and the twenty-page opinion from this expert that I had that there was a conflict. If I represented Mr. Mohamed, I felt I was committing an ethical conflict with my state bar in representing him and not getting an order from the court, a decision for the court, on whether or not it was a conflict, that the order of the judge, just of a colonel, who was not even a judge. He was ordering me as a colonel to a major, which did not resolve the conflict issue, which he could really have resolved, if he had taken it under advisement, and came back, "I found under this, these are my rulings." He could have. He handled it definitely in a way that would have put me between a rock and a hard place. I would have to continue. So realizing that I was being ordered to do something that I thought was going to be an ethical violation, it was recommended to me that if you cannot represent Mr. Mohamed, the best thing that you can probably do is raise the Fifth Amendment.

Q: How does that apply?

Bradley: Well, we were thinking it would apply because if I said anything further to represent Mr. Mohamed, I was violating my ethical duties to my bar, an ethical violation in representing Mr. Mohamed with the conflict. Only what we did not realize at the time, because this is in the heat of while we are doing all this, is that even if I had continued to represent Mr. Mohamed, while it might have been an ethical violation, it was not a criminal violation. The Fifth did not really apply. But at the time, we didn't know that. I was thinking it is an ethical violation.

Another way I can stop this ethical violation is by saying "I'm not going to say anything" and raising my Fifth Amendment rights.

Q: But was else? Was it part of Smith's strategy to try to use you in this regard, to try to bring these military commissions, as then constructed, to a halt?

Bradley: I think it was our duty as military defense counsel to bring up legitimate issues of any nature in front of the commissions and have them ruled upon, and to represent the best interests of our client as any defense counsel would, and making sure that you have a legitimate and fair system.

Q: Now, is this the same location when Binyam Mohamed himself appears in this courtroom wearing a long tunic dyed bright orange, assigned to the least compliant prisoners at Guantánamo, and says, "This is not a commission." He is actually holding up a small sign. "This is a con-mission. This is a mission to con the world." Did you see that?

Bradley: Yes, that was the same hearing. Let me put some meat and background on that. Prior to Mr. Mohamed's hearing, there had been other military commissions. The dress code was always at issue. Again, because the rules were being written so quickly, no one had thought about the dress code. One detainee came in with a t-shirt that said something that offended the judge. The shirt itself did not offend. It was just that he came in so casually with a t-shirt on that suddenly they wrote rules about proper dress wear about the court. We thought it was hilarious, because they were just writing these rules out of nowhere. So the dress code came out, I think they would

call them POMs [Presiding Officer's Manuals] or something, where they would include that there was a dress code.

One of our concerns was that after holding these individuals for years, and making them wear orange or brown or tan jumpsuits, suddenly, the first time they are going to appear in front of the world, because you have the world press—the *New York Times*, the *LA Times*, *Wall Street Journal*—and human rights organizations in the audience now you want to parade these guys out in Western clothes, to expect them to wear ties and jackets, and sit there as if they are part of this, fair and full system. Understanding that, understanding the psychological, emotional presentation that these commissions—they wanted to put in the commissions—Binyam and no one wanted to go out there and dress as if they were playing a part in a play or in these show trials.

It became an issue for Binyam that, “I’m not going to go out there in a jacket and tie when, for the last six years, they have kept me shackled and in an orange jumpsuit. I’m going to go out there in shackles and an orange jumpsuit because I want the rest of the world to see how we’re being treated. We’re not being treated as a Wall Street businessman. Walking into this courtroom, this is the first time the world is seeing us. I want to go out there the way I’ve been handled, the way I’ve been dressed, the way I’ve been treated.”

I had actually made a request, because they would shackle them, they would keep them in their clothes, make them change at the courthouse, in a room in the courthouse, unshackle them there, and then walk them into the courtroom. Binyam said, “No. The way they brought me over here, I

would walk into the courtroom.” I had made a request that Mr. Mohamed come into the courtroom in shackles.

Of course, they refused that. They were not going to allow the world press to see him shackled, the way they do twenty-four hours of the day. In the courtroom, they want him coming, walking, escorted, but free of chains. They refused that. They made the defense responsible for dressing him, so they would not let him wear his orange jumpsuit. He wanted to wear an orange shirt. He wanted to wear an orange shirt that had a number ten on the back, to represent the ten detainees originally being tried in the military commissions. We could not get the shirt that said ten on it. He wanted to wear a soccer shirt that said ten on it. Instead, he had an orange long shirt with a collar that was dyed orange.

Q: It has called something like a kamezi [phonetic] style or something, right?

Bradley: It has something of that name, I’m not quite sure. It was almost a Middle East-type of dress wear. It was appropriate and nice, but it was dyed orange. He wanted that orange to represent how he would have been dressed every day.

Q: So essentially, he was there so they could take a plea from him?

Bradley: Correct. How the “con-mission” thing came about was that Mr. Mohamed wanted to talk for himself. I was more than happy to allow him to talk for himself because I had the conflict. He did not want to be represented by Clive or Joe. He wanted to represent himself. I had

the conflict. We used that opportunity for Mr. Mohamed to speak freely, and the court allowed him to speak freely.

During the course of the conversation, at one point, when Colonel Kohlmann was talking with me, I remember hearing this, squeak, squeak, squeak, squeak, squeak. I look over, and Binyam Mohamed has this piece of paper and he is writing something in this black magic marker on this white paper. That marker is squeaking. I don't know what he is writing, but I'm trying to keep talking to the judge, because I'm trying to tell Binyam, "Stop whatever you are doing."

He was writing a sign that said, "con-mission." I didn't know that at the time. I just heard the squeak of the marker. When I finished sitting down, talking to the judge about whatever issue we were discussing at the time, Binyam starts talking again. That is when he informed the judge, he said, "I know what this is all about. This is not a commission; this is a con-mission." He holds up this sign that says, "Con-mission. This is a mission to con the world."

Q: That is pretty ballsy of him.

Bradley: It was absolutely ballsy. Absolutely brilliant. I wanted to laugh at the time, especially when he held up the sign and it said, "con-mission."

Q: Did the audience also see what he made?

Bradley: Oh yes. He held it up, and when he held it up, the judge, Colonel Kohlmann, immediately reacted and told him, "You have to put down that sign."

Binyam, being on point, knowing these rules were being written all the time, said, "Well, where is it in the rules that someone can't hold up a sign?"

The judge was saying, "Well, not everything is in the rules. There are certain things I can make from the bench."

He says, "No, I want to know." He says, "So now you're creating new rules."

The judge said, "Well, no, I'm not creating new rules. There are certain things I just need to control."

He said, "Okay, well, I guess we now have a new POM."

I think they were called POMs, meaning Presiding Officer's Manuals. I'm not quite sure what they are, but they were called POMs. He says, "So I guess we have a new POM about people can't hold up signs. I'll wait for you to put that in writing as well." They were rewriting the rules all the time.

Q: Is there a contrast between this meek fellow that you met in the jail cell and his demeanor and activity in this courtroom?

Bradley: It was never vicious. It was witty. Binyam is very witty. It was very witty, but it was not aggressive and it was not mean. It didn't come off in that way. It just came off as, "I can match wits with you. This is my life. Let's talk about this." He was brilliant. He was saying things that were absolutely true, such as, "You guys have tortured me for the last six years, you render me, and you can't even get my name right. What kind of intelligence can you have when you have someone for six years, and you still don't know my name?"

Q: The spelling, you mean.

Bradley: The spelling. He used an example. My paralegal is still laughing about this. He kept saying, "You don't know how to spell my name. You know, that is not my name. If you look it up in a phone directory, you came over Muhammad. My name's Mohamed. If you called them, you would call the wrong person. Obviously, you have the wrong person and you must have a terrorist out there. I strongly suggest you go out and find out this Mr. Muhammad."

Q: He's saying this?

Bradley: He is saying this in open court. You can hear the snickers in the audience when he's talking about, "This is a mission to con the world, because once the U.S. will do it, Canada will do it, the rest of the world will do it, you guys lead the way, and you're leading a bad example." I mean, all stuff that that was brilliant, that you would expect—.

One of my favorite things that he said was, “Why should I trust Major Bradley? I don’t know who she is.” He said, “Judge, it’s like this. What if you were captured by Al-Qaeda, and you were held in prison for years? And you were mistreated, and you were tortured, and someday, somebody in a turban and beard came in and said, ‘I am your lawyer’, at what point would you trust them?”

Q: He sounds quite smart.

Bradley: Very smart, but not a terrorist. Not a mean guy. He never came across mean or angry or mad or anything of that nature.

Q: How did Colonel Kohlmann resolve this with him? I mean, did he say, “Okay, the hearing’s over, what’s your plea,” or what have you?

Bradley: No. I think the initial strategy was allow Binyam to talk, and make them think, “Okay, we are giving you a full, fair hearing, we are allowing you to talk,” which was the biggest mistake, because he kept walking into every one of Binyam’s traps. Every time you say something, Binyam has a response right back. Initially he allowed Binyam to do a lot of talking.

At some point, when we start shifting into this issue of my conflict, I became the object of Kohlmann’s wrath. I don’t know if it was so much because Binyam was getting the best of him, or he couldn’t go after Joe or Clive, but I became, I felt, the target of Kohlmann’s wrath.

After a while, the shift was from Binyam to this issue of this conflict. The hearing pretty much ended up terminated because at some point, when Colonel Kohlmann and I are having this conflict about my conflict of interests and I'm raising the Fifth Amendment and saying I will not answer any more questions, I will not represent Mr. Mohamed, I am raising the Fifth, the presiding officer and the prosecutor continue on with the hearing.

Now Mr. Mohamed is not represented by anyone at this point, because Joe and Clive were not really representing him. He said, "They're just legal advisors. They're not representing me." I'm not representing him because I'm pleading the Fifth, so I'm not answering any questions.

The judge just rolls on. He asks Binyam at some point, "How do you plead?" Binyam does not answer. He's looking at me. I'm not answering because I plead the Fifth. Joe and Clive can't answer because they don't represent him. Because Colonel Kohlmann gets no response, he puts the plea on the record for the member Mr. Mohamed. As you know, Colonel Kohlmann, the judge, puts a not guilty plea in. The court and the prosecutor read the charges on the charge sheet and they just go on with the hearing. It was unbelievable. Because I'm saying, "Here is this man sitting here who does not have counsel. He is not represented by counsel."

Q: How does it all end?

Bradley: Eventually Colonel Kohlmann asks for a recess. And I'm thinking, during this recess, that he's going to go up and draft charges against me. I think I'm in trouble because of the way he just abruptly said, "Well, I need to take a recess, and we'll be back, I think, in fifteen or thirty

minutes.” Well, that fifteen or thirty minutes ended up about two hours later. He comes back and gets on the bench. As much tension as there was prior to the recess, afterwards, he gets on the bench and he says to me, he says, “Major Bradley, it is obvious you believe you have a conflict. As a result of that conflict, I am going to allow you to provide a written motion, a proper written motion, according to rules, and I will allow you to call witnesses so I can properly rule on your motion on the conflict.”

He came back, and he was reasonable. He was calm. I was thinking to myself that we could have done this three hours ago when I first raised the issue. He came back and he said, “We are going to schedule a new date in June and you will raise this motion. I will allow you to call witnesses, and I will take your motion under consideration.”

I later found out what had happened—at least, what I have been told had happened—was during this time, the Pentagon was listening in on the hearings. They realized that there was a conflict between Kohlmann and myself that was going to go to a point where, if he kept pushing me to do this on the order, and I was raising the Fifth, there was a fear that I was going to get locked up.

I mean, that is how much tension there was between Kohlmann and I on this issue. Even everyone in the press corps thought that Kohlmann was going to lock me up, put me in the brig.

Q: He doesn't want you as counsel, for the reasons you say. But you continued as counsel, right?

You resumed.

Bradley: Correct. Because we were going to come back in June to do the hearing on the conflict issue, to have the judge rule. I think June 11 was the date that we were scheduled to go back on the hearing on the motion. June 9, I believe, is when they had the three suicides at Guantánamo Bay. As soon as they had the suicides, they pretty much shut Guantánamo down. Any reporters who were on Guantánamo Bay, who were there early for Binyam's hearing, were shuffled off the base. The hearings were immediately shut down, and no one was allowed to go down on Guantánamo Bay. So we never had the second hearing, because of the—

Q: I hear you. But did you continue?

Bradley: I continued as counsel because at that point, after the *Hamdan* [v. *Rumsfeld*, 2006] decision that came down even that month, in June, we all thought this was all going away.

Q: You mean the commissions.

Bradley: The commissions were all going away. Believing that the commissions were going away, I still stayed with the Office of Military Commissions. Even when they resumed, I did stay on Binyam's case as counsel so he would have some continuity.

Q: Was that okay with him?

Bradley: I don't think it was necessarily okay or not okay with Binyam. I knew enough with Binyam at that point that if I left the case—one of the things I didn't like, what they were doing

with counsel—they would allow counsel to come down there for a year to represent an individual. The only obligation of counsel was to be on the case for a year. When the year was up, if counsel wanted to stay, they would let counsel stay. If counsel wanted to leave, they wanted to let the counsel leave. The next year, the detainee could have a new counsel for a year. I thought that is a horrible way of practicing law. You don't practice law in that fashion, particularly when you have people who don't trust counsel in the first place. If you're going to establish any trusting relationship it is going to be long-term.

Because I had already tried to establish a relationship with Binyam, I felt, for his sake, if they were going to require military counsel to stay on the case, one, I was going to raise the conflict issue again, because we still needed a ruling. I believed it was because they were going to force military defense counsel on Binyam whether he wanted it or not, that I wanted someone that, knowing that I would fight for him. I think after he saw what happened in April, how close I probably came to taking a bullet for him, so to speak, of being hauled off by the judge, it was important for me to keep that continuity in representation.

Q: You know that the administration in the fall of 2001 or early 2002 decided that the Geneva Conventions did not apply.

Bradley: Yes, those quaint little documents.

Q: The *Hamdan v. Rumsfeld* decision in June of 2006, which you mentioned, a few days later, after this supposed hearing was scheduled after the suicides—that said that the military commissions, as they were constituted at that time, were unconstitutional.

Bradley: Correct.

Q: And that in fact, the Geneva Conventions applied.

Bradley: Correct.

Q: Now, from that period on, is it fair to say that the basic charge—laying aside all the business about whether Binyam Mohamed met with Osama bin Laden, or KSM, or any of that stuff—against him had been that he had conspired with this Jose Padilla to create a radioactive dirty bomb to set off in the United States?

Bradley: That was the fear charge. Correct.

Q: Now, as you mentioned a moment ago, rather ironically, Jose Padilla himself, who was the man who was supposed to carry out the bomb in the Chicago area, had been taken from Guantánamo and sent to the federal district court in Miami, and tried there, in federal court. Not at Gitmo, not a military commission, but in federal court, in 2005. He had just received seventeen years imprisonment. He was not, at that trial, charged with the dirty bomb. He was

charged, I think, with material support or something, of Al-Qaeda. In other words, the dirty bomb had exploded. It had disappeared, right?

Bradley: Yes.

Q: Now, with regard to Binyam Mohamed, who is facing the military commission still, now we are, let's say, we are after 2006. The dirty bomb charge was dropped, was it not?

Bradley: No. Well, let me correct a couple of things. Jose Padilla was never at Guantánamo, because Jose Padilla did not qualify for Guantánamo because he was a U.S. citizen.

Q: He was at the brig in Charleston.

Bradley: Correct. They played some political games with him and moved him around. But the whole thing, when they picked up Padilla—first of all, when you read Binyam's original charge sheet, they were saying that Jose Padilla was going to Chicago. Jose Padilla was not going to Chicago. Jose Padilla ended up in Cairo for a couple of months. They didn't pick him up in Chicago until months later. This whole thing that he was flying to Chicago—but they had to make it look like Binyam and him were on the same flight, and they had this conspiracy, and Binyam was going to London, and Jose Padilla was going to Chicago, and they were going to meet up later—fantasy, fantasy, fantasy, to the extreme extent.

Jose Padilla went to Cairo when he left Pakistan. He got picked up later when you came into Chicago on this alleged dirty bomb. He was picked up as a material witness, at that, allegedly on this whole dirty bomb. I'm going to come back to the whole dirty bomb thing, where those connecting dots get confused and people are putting wrong intelligence together.

But about this whole thing with Jose Padilla, you are right. When he got picked up, it was a big deal that they caught this guy coming into the U.S. He had this dirty bomb, he is going to blow up buildings and kill a lot of Americans. This is after 9/11, so everyone is still frantic about anything being set up, anyone coming in and killing more Americans. Everyone fell for this whole thing with Jose Padilla.

When Jose Padilla was eventually tried in Miami, I went down to the trial. I figured, if this was a co-conspirator with Binyam Mohamed, it was important for me to be down there and to see what kind of evidence the government was going to put on about this whole dirty bomb.

I remember going down there and talking with Andy [Andrew G.] Patel, who was representing Jose Padilla, about the charges. Andy looked at me and said, "There is no dirty bomb."

I am like, "What do you mean, there is no dirty bomb?"

He says, "They dropped those charges. They are not charging Jose Padilla with a dirty bomb." I was floored. I was absolutely floored because that is all you ever heard about with Jose Padilla.

Suddenly the government drops all these things on this dirty bomb, and now Padilla is involved in some other conspiracy with some imams down in Miami.

That had nothing to do with whatever you read in the newspaper, or heard about Jose Padilla, or why they held him in Charleston, and held him in the brig for so long. It had nothing to do with a dirty bomb. The dirty bomb was not even mentioned. The dirty bomb was as if it never existed. They dropped it on Jose Padilla, because there was never a dirty bomb plot to begin with. The government knew, in a real courtroom, you were not going to get away with some fake dirty bomb that never existed.

We think the whole dirty bomb thing came out because Binyam must have mentioned, during the time when he was tortured, that one time he saw something on the computer about how to make different bombs. It had to do with something about you put uranium in a bucket and you twirl it around your head at a certain velocity.

Q: That was a joke.

Bradley: It was a joke.

Q: I don't even mean a joke by him. I mean, it was a joke that has been on television.

Bradley: Right. It was a joke thing that was on TV. It had been out there for years. I think Binyam said he might have saw something like that on the website, and that is all that was

needed for them to say, "Oh my God, there is this dirty bomb, and they are coming to the United States." That is where the origin of this dirty bomb probably came from.

Q: So now we are past 2006. The Padilla dirty bomb thing has evaporated in the Padilla trial.

Bradley: Because it never existed. It evaporated because it never existed.

Q: But here we are, still, with Binyam Mohammed. Because the rules of the military commissions had to be changed in the wake of the Supreme Court's ruling in *Hamdan*, they had to recharge Binyam Mohamed if they were going to charge him for a military commission.

Bradley: Correct. After *Hamdan*, all charges were dropped against individuals. But under the new military commission, after 2006, everyone was recharged.

Q: He, in fact, was recharged.

Bradley: He was in fact recharged, yes.

Q: That included, again, the dirty bomb thing, right?

Bradley: Right. Even though it had been dropped against the alleged primary person, Jose Padilla, because the commissions did not have real rules of evidence, they still claimed that there was this dirty bomb plot.

Q: Now in the military commission setup, not only was there a military commission defender like yourself, there was a military commission prosecutor, too, right?

Bradley: Correct.

Q: The man's name was Darrel [J.] Vandeveld?

Bradley: Darrel Vandeveld eventually became the chief prosecutor on a number of cases, including Binyam Mohamed's.

Q: After Binyam was charged, continuing now with this dirty bomb thing, Vandeveld quit, did he not?

Bradley: Eventually Vandeveld did quit, but it was more complicated than that. Darrel Vandeveld was in charge in a couple of cases. One of them was [Mohamed] Jawad, who was a young teenager when he was picked up. Darrel started to become very disillusioned over the commission process in the *Jawad* [*U.S. v Jawad*, Court of Military Commissions] case because he understood that the government was not being forefront in turning over evidence, and being honest on what evidence they had, that everything was in disarray. Darrel came into this, full-fledged just like I did, "Okay, we'll give these individuals their day in court."

Q: These terrorists.

Bradley: These terrorists their day in court. He was more than willing to prosecute these people. He had had friends who had been killed overseas. He was hardcore prosecution—"Let's go after these guys. Let's put them away for a long time." After working on the *Jawad* case, and working on other cases, he became very disillusioned. He realized that decisions were being made not for the sake of justice, but for political reasons, that he felt that there was some individuals, probably *Jawad* in particular, where the evidence was not there, that he was mistreated, that there was sleep deprivation.

He became very disillusioned over the process, and being a man of principle, decided that he could not be part of this and resigned, even though that meant he would become the wrath of many individuals, because he was the prosecutor. He had a number of their cases. He was their man, as far as the prosecution was concerned, and he quit.

Q: In late 2008, having been recharged and still the military commission has not functioned yet for Binyam Mohamed, he goes on a hunger strike at one point, does he not?

Bradley: He does. He had been on a couple of hunger strikes. Before I even talk about the hunger strikes, I just want to go back with Darrel Vandeveld really quickly, and his quitting the Office of Military Commission Prosecution.

He was not the first one to quit. There had been a number of prosecutors who left that office, and many under the disillusion. Even the chief prosecutor, Colonel Morris [D.] Davis, had quit as

well. Darrel Vandeveld was the sixth or and seventh publicly to come out and leave that office, because they knew how bad things were, and how corrupt the system was, and that these individuals not be given fair trials.

I can tell you, if there were publicly six or seven prosecutors—publicly—that came out and quit, there were probably a lot more who just kept their mouth shut, either did their time, or left there and wanted nothing to do with it. That tells you something right there, when you have people who are prosecutors, and someone of Darrel Vandeveld's character, of coming in, believing in the system, willing to prosecute these individuals, and then quit after he sees what the system is about, it tells you that the system has not been designed to be fair or just, that you have even prosecutors, hardcore prosecutors, unwilling to prosecute people under the system.

I just wanted to make that clear, because I think that is important to understand the system. It was not just some defense attorneys. They were prosecutors and chief prosecutors, and a number of people. I have had conversations with prosecutors, with people who have come and told me they are disgusted by the system.

But as far as the hunger strike, yes. Mr. Mohamed—

Q: Not he alone, though, right?

Bradley: Oh, no. There were several hunger strikes. You have to understand, with the hunger strikes, it was the only way these detainees, or these prisoners, had a voice in anything that they

could do. It was a way for them to protest their horrendous conditions, and the injustice of many of them being locked up.

Guantánamo Bay started off with 768 people being detained. We are down to 173 or 170 at this point with only six convictions. You have to ask yourself a number, “Okay, how the heck do you lock up that many people, seven hundred something people, and let six hundred something of them go?” That means you had six hundred wrong people to begin with. No one ever takes account, when we look at Guantánamo, “Oh, we should, you know, try these terrorists.” How about the six hundred other people that you had down there? Obviously, they were not terrorists.

Q: Some have caused some trouble, have they not?

Bradley: Even if you take the numbers that the government gives you—if you had six hundred people, seven hundred something people, I think they started off with at Guantánamo. The number keeps changing, because no one has been open about how many people have gone through Guantánamo. But even saying the conservative number, about 750, even though I think it was a little higher.

Q: 779.

Bradley: Okay, 779. At most, that the government has been able to say that has caused trouble, is maybe thirty to fifty, okay?

Q: I'm not talking about people still at Guantánamo. I am talking about people—

Bradley: —who were released.

Q: Somewhere.

Bradley: Correct. When you look at that list of people that the government says have been problems since release, they are individuals who have been outspoken on that list. There were the Tipton Three, the three British individuals who had done some kind of documentary about Guantánamo that was very critical of Guantánamo. Their names are on that list. Someone speaking out about their situation, and being effective in speaking on the situation, does not make them troublemakers. They have a right to speak.

Q: But in any event, whatever the numbers, they are small, right?

Bradley: They are small in comparison to the number of people that we picked up.

Q: A few months before you came into the picture in the fall of 2005, your vice president [Richard B. "Dick" Cheney] said that "There isn't any other nation in the world that would treat people who were determined to kill Americans the way we're treating these people at Guantánamo. They are living in the tropics, they are well-fed, and they've got everything they could possibly want." Now, that is when you came into the picture. Recently, your former president, George Bush, published his memoirs, *Decision Points*.

He writes, "At Guantánamo, detainees were given clean and safe shelter, three meals a day, a personal copy of the Koran, the opportunity to pray five times daily, and the same medical care their guards receive. They have access to exercise space and a library stocked with books and DVDs. One of the most popular was an Arabic translation of *Harry Potter*."

Now, is there a disconnect here between what Cheney said in 2005, when you came into the picture, and what George Bush is saying now, and what you saw?

Bradley: There is such a disconnect. I will not even comment on half that stuff because it is just fantasy. The one thing they do not have is the one thing America prides themselves on and that is freedom. You can give people three meals a day. You can give them all the medical care you want. If they are not free, and they are stuck on the island as a prisoner, you cannot justify it, no more than you can justify slavery by saying, "Hey, you took them out of Africa, you brought them to America, you gave them shelter, and you gave them a new religion." I find that so offensive, when you take people's freedoms away, no matter how you do it, to try to justify in some fashion by putting them on some island, giving them meals and giving them medical care.

That is not even true to any extent, based on what I saw, how Mr. Mohamed was treated and the type of care that they had. I saw the meals they had. Yes, they were feeding them. I'm not saying they didn't feed them. I'm not saying that they are supposed to get filet mignon or a big steak each day. To sit there and to paint it in a way as if we are giving these people the greatest treatment in the world is disingenuous of really what happened. I did more battles down in

Guantánamo on making sure that Binyam Mohamed was treated fairly. It is just extremely disingenuous.

Q: Well, you have characterized the treatment down there as inhumane.

Bradley: It is inhumane. It was absolutely inhumane. No attorney should have a walk into a cell, or into an interview, and see a client so emaciated that you think he is going to die right there doing the interview. I still recall the time I walked into Binyam's cell and just saw him skin and bones. You could see every single bone in his body. He was on a hunger strike.

Q: This is late 2008?

Bradley: This was late 2008, but there were other times, too, where he was on hunger strike. This was late 2008 where I saw him on the verge of death.

I walked in there thinking, “Oh my God. Why was I not told? At what point were you going to make any attempts to resolve the fact that this individual has not been eating—is on a hunger strike?”

Even at that point, I could probably have talked Binyam into eating, and sat down with him, and talked with him, if they had even let me know how horrendous the condition was. I had no idea how horrendous the condition was because no one bothered to say anything, and they acted as if I didn't have a right to know. I'm his defense attorney, I've been a military officer in the United

States, and I have a top secret clearance. I should not have to walk into a situation to see something of that nature.

Q: Now the fact is that soon after, in early 2009, all charges were dropped against him, and he was released. Is that right?

Bradley: About October of 2008, after Darrel Vandeveld had quit the office, all charges against all five individuals that Darrel Vandeveld had been the lead prosecutor on, in all the cases, were dropped against all five of those individuals.

I remember getting the call from the prosecutor saying that the Convening Authority, Susan [J.] Crawford, had dropped the charges against Mr. Mohamed without prejudice, but that in thirty days—and I remember her exact words—but in thirty days, they are going to recharge him again. I was beside myself because in the same breath, you are telling me you dropped charges, and now you tell me, within thirty days, you are going to bring charges again.

I knew way before then, but this, again, was another political game they were playing. They were playing this political game because this was just before the presidential election. This was after Vandeveld quit.

They were doing two things. One, they were trying to clean up any taint that Vandeveld had on these cases. He quit, and he was very bitter about what was happening, and he was very critical about the commissions—so much so that he was even going to testify for the defense in the

Jawad case about the situation in *Jawad*. The other thing that the government was doing at that point was, they were waiting to probably see who was going to win the elections, because thirty days later would have been after the presidential elections.

They knew when they dropped these charges that they were going to bring these charges again. I said, “Why would you even drop the charges at this point? There is no speedy trial.” It wasn’t as if they were coming against the speedy trial clause where you have to bring a person to trial within so many days of the charges. They didn’t have to worry about that. They were worried about making this look like, if that Darrel Vandeveld came back and said anything critical, “Well, we looked at these charges again.” They already knew before they called me that their plans were to bring charges against Binyam in thirty days.

Now, if it wasn’t for the UK government and what was happening with UK litigation and UK government pushing—because I know the UK government was doing some wrestling with the U.S. themselves to get Binyam back—Binyam would be in Guantánamo to this day. Of five individuals whose charges they dropped after Darrel quit, four of them are still there. The only person who is not there is Binyam because the UK government was instrumental in wrestling with the U.S. government, which it had since 2007, when it had asked for him and all of their UK residents to be released, to get him home.

But again, it was all political.

Q: What was the determining factor in the U.S. acquiescing to Britain this time, in Binyam's case?

Bradley: I don't even think it was with the change in administration. I think probably it was an opportunity to let him go, because they had country for him to go to. One of the things that held Binyam back from being released was that the U.S. wanted all these demands from the UK government on restrictions, and on conditions on Binyam which the UK was saying "We are not going to do it. We are not going to try him." MI5 knew back in 2002 they had a nobody. They had no evidence. They had nothing they could try him with. The U.S. wanted him tried. They wanted some draconian restrictions. The UK kept saying, "We have nothing to do that for."

Q: Well, but they sent him back.

Bradley: But they eventually did send him back.

Q: So that was in February of 2009, right? Facing no charges, right? Facing no charges in the U.S. or Gitmo and no charges—

Bradley: —in federal court. No. In federal court also, because this is the other thing that happened. In October, in his habeas case, the judge kept telling the government, "Turn over exculpatory evidence. Turn over the evidence." That is one reason why we had filed in Britain to get whatever evidence the UK had, because we knew MI5 was involved. The British courts were ready to turn over the evidence, but the U.S. was not turning over the evidence. I had been

representing Binyam since 2005 and getting discovery from these people was impossible. They were not turning over evidence in the cases.

In October 2008, when the federal judge had been telling the government all the time, turn over this evidence, the judge finally gave them a drop dead date. I think it was October 7. “October 7, when you come in here, I want you to have given the exculpatory evidence.”

Q: Regarding the dirty bomb.

Bradley: Correct, to the defense, especially on this dirty bomb. Turn this over. You have been saying for years this member had this dirty bomb. When they come into court on October 7, the defense is ready to say—we are ready to say—“Your honor, the government still has not turned over the evidence.” The government comes in and says, “We are dropping these charges.” I think the judge was probably livid—“For months, you’ve been dragging your feet on this. For months, I have been telling you to turn this over. I give you a drop dead date, and finally, you come in here and you drop these charges.” This gives the judge the impression, “You guys don’t have anything to begin with. You knew you didn’t have anything to begin with. You’re holding this man in Guantánamo in conditions that he should not be held in, or anyone should be held in, and now you’re playing games.” They drop all the major charges, particularly in regards to this dirty bomb.

Q: As they had, three years earlier, dropped them with Padilla.

Bradley: Absolutely.

Q: Now, at one point, just prior to the transfer to Britain, you met with Foreign Secretary David [W.] Miliband, did you not?

Bradley: Yes, I did.

Q: That must have been a pretty unusual meeting.

Bradley: Yes, it was unusual. But I thought, at that point, if the defense was going to make any headway on getting Binyam released, given the fact that Darrel Vandeveld had quit, given that the charges had been dropped, and the threats that he was going to be recharged, given the new president in the White House, I thought, if the UK had been fighting for him—which they had been fighting for him since 2007—then this was the time to make every effort I could through whoever I could talk to in the British government, to persuade them, this is the time you need to bring him home.

Fortunately, I was able to get interviews with David Miliband and other government officials to persuade them and to urge them of the dire situation that Binyam was in, along with the hunger strike. As I said before, that if Binyam continued in the situation that he was in, that he was going to leave Guantánamo one of two ways, either totally insane—because I think over a period of time, the toll of not being able to know what was going to happen was going to drive him insane, along with being at Guantánamo—or in a coffin, because he was to a point where he was

probably willing to die through a hunger strike. At some point, they would have force-fed him, which was something else I did not want to see him go through, given the abuse that he had already been through during his years of captivity, of having him strapped to a chair, and a tube shoved down his nose, and sure, some liquid poured down the tube. That he would leave in a coffin, because that is how dire the situation was.

Q: Right. Now the British, after his return, the British government agreed to pay some money to him and others. Is that not correct?

Bradley: That is correct.

Q: How do you feel about that, against what had happened to him? Is that compensation?

Bradley: There is not enough money on God's green earth that can compensate the abuse that Binyam and others—but particularly with Binyam, because I know Binyam's case—have gone through. I know it's a lot of money, and I know a lot of people may think it's unfair, but none of that, not a penny or pence of that money, can undo the psychological, long-term, emotional, physical damage that has been done to Mr. Mohamed. What he has gone through, I am quite sure, will probably be a nightmare for him.

I heard some of his interviews after he was out. Even then he will always probably have to live with that concern of whether someone can come and just pick him up and take him away and hold him for years. He probably will always be cautious of someone coming in a room that he

doesn't know. There are things that money can never buy, and that money never buy him the peace of mind. It never will.

One thing I have always told individuals is that I really don't know who Mr. Mohamed is. I say that in the sense that even when I started representing him in 2005, he had already been tortured and abused. Whoever Mr. Mohamed was prior to 2002, when he was picked up, was not the Mr. Mohamed I met, and that will probably never be. A lot of him has probably been emotionally shut down, just to survive. You can never get that back. Money can never pay for that.

Q: I made a passing reference much earlier today to Jeppesen Dataplan, which was a Boeing subsidiary whose planes were used to fly people around these rendition flights, because Binyam Mohamed was not the only one rendered. I have seen figures roughly between fifty and 150 or upwards. I think he was a party to a suit against Jeppesen Dataplan.

Bradley: Correct.

Q: That suit was lost in the Ninth Circuit Court of Appeals during the new [Barack H.] Obama administration after the Obama administration—like the Bush administration—had argued that state secrets were involved here. Is that correct?

Bradley: That is correct.

Q: How do you feel about that? In fact, how do you feel about the Obama administration in this area?

Bradley: I will not talk about the Obama administration, given that that is my current Commander in Chief. But as far as the Jeppesen Dataplan, it's a bunch of nonsense because it's not state secrets that they are hiding. What they are hiding is the embarrassment that this country has put Binyam through, and others through, and their own misconduct.

Particularly it is ironic. I had the opportunity to read a book on the *Reynolds* [*United States v. Reynolds*, 1953] case that started this whole state secret. In the *Reynolds* case, the state secret was that the government—I think it was the military, I think it was the Air Force, in fact, it may have been the Army—had created this whole state secret because they had been negligent, and they didn't want to be sued by the families of these individuals who had died on this aircraft, and they claimed that the aircraft was on some kind of secret mission, and if the families sued that it would be detrimental to national interests, and the state interests of what the flight was about. That was not what caused the plane to crash in the first place. It was total negligence by the military, but the military was able to avoid that suit and the unlawful death claims by playing this so-called state secrets.

It is the same thing with Mr. Mohamed. We have done cases before where there are ways to shield classified evidence. You don't stop justice from happening when you have means to shield classified evidence. This is just a way for most of the evidence that will come out against the U.S.—it's not anything of national interest or protecting our national interests. It's protecting the

embarrassment of the treatment of Mr. Mohamed, and that we were as deeply involved in his rendition, and in his abuse, and in his torture that we would not like to comfortably admit. Even to this day, the government, the U.S. government—now, other governments will say, the UK government, you will find this—will never even admit that they rendered Mr. Mohamed to Morocco. They have never said that to me.

Q: Are you mindful that President Obama issued orders to continue the military commissions? Or so-called reformed, changed, somewhat, military commissions. Did you read that?

Bradley: Yes, I did.

Q: How do you feel about that?

Bradley: There is no such thing as a reformed military commission. The military commissions need to be terminated. They need to be stopped. All we keep doing is changing the package, and putting some more perfume on it to make it look like it is legitimate. They are show trials. The whole system down there is so fraught with problems. Why are we creating a new court? Other than to have evidence that we know that we cannot get into a legitimate federal court. We are dumbing down the evidence so we can try to get convictions. Even when you look at the six convictions that have come out of Guantánamo Bay, they are so fraught with problems. There is no justice in any of those decisions.

At this point, it was as if, when Binyam was there—if they had Binyam convicted, that he killed the Pope, if that meant he would get the heck out of Guantánamo—that is exactly what you are going to get. At this point, they could convict Satan down at Guantánamo, and I would not believe the charges or the convictions, because they are going to be so illegitimate.

Q: Hold up. As you say, there are 170 some people left out there. Some of them have already been cleared for release to other countries, if they can find countries to put them in. They will be left with a core of people, some of whom they plan on putting on military commission, but some of whom, they—from what has been done to them, they really cannot successfully prosecute them in a federal district court with the civilian rules. Nobody wants these people. Your party, the Republican party, the other party, the Democratic party—they don't want these people locked up in the United States, certainly not locked up indefinitely. What is the solution here? What do you with the rest of these people?

Bradley: Do as we do in any criminal justice system. You try them, and you convict them, if you get the conviction. If you don't have the evidence, you have to release them.

Now, we have created a situation where we cannot release them, because no one will take them back, because we have nowhere to put them, but they have to be released. At some point, they are going to have to release these individuals, at some point, unless you are going to keep them for their all-natural—

Q: Even if there are a handful of the “worst of the worst”?

Bradley: But they're saying that they are the "worst of the worst." I'm at a point, just because you're telling me, they are the "worst of the worst." You told me Binyam was the worst of the worst.

Q: I didn't say it.

Bradley: I know, I'm just saying, when I say—

Q: Well, let's say Khalid Sheikh Mohammed really is—

Bradley: Try him. They had charges ready for Khalid Sheik Mohammed before this. Try him in a federal court. Let us assume, because this would never happen in a military commission, but assume in the military commission, he goes out to the military commission and he gets acquitted of charges in this military commission. They are still going to hold him, will they not? So why are we putting him into this fake court? What is the purpose of the military commission?

Q: What is the purpose of putting them through the civilian court system, then?

Bradley: You have to try somebody and let the courts make a decision. If there is a conviction, they get sentenced. If not, you let them go. That is the way that the criminal justice system works, whether we like it or not. When the government starts making these determinations of who is guilty, or who is not guilty, or we can hold in indefinite detention for any period of time,

the danger is, at some point, we cross the line, just like we crossed the line of all the people we have picked up and put in Guantánamo Bay, that all these people are bad just because the government said they are bad. There are procedures. There are rules—a way that you make that determination.

The government cannot *sua sponte* decide who is bad and who is not without going through due process. That is what this country is supposed to be standing for. That is what is supposed to make this country great, is that we don't just—that is why we have habeas corpus. The king, at the time when this all happened, just could not decide, "Someone is my political enemy or I do not like someone, I am just going to throw them away without a due process" and someone looking over on why are you doing this?

That is exactly what Guantánamo has become. It has become this black hole, and we are justifying, after 9/11, that it's right. It's no more right than it was before 9/11 or after 9/11 to hold people without giving them due process and put them through a court.

Q: All in all, the experience for you of representing Binyam Mohamed and what you have learned about our system and anti-system sometimes, has it been worthwhile for you?

Bradley: Well. I mean, that is—worthwhile. I don't know if I would put—I have learned a lot. I don't know if I would necessarily do it again. It has been trying. It has been disappointing. It has been eye-opening. Worthwhile. I don't know if I would call it worthwhile. I would just call it—I am not quite sure how I would term it.

Q: On the whole, did it change your impression of what your government stands for? I mean, you are a military justice lawyer. You probably believed in the Geneva Conventions. You probably didn't know there was such a thing as an enemy combatant.

Bradley: No, I didn't know a lot of different things. I didn't know there was a difference between an enhanced interrogation and torture, that waterboarding is okay, especially if you do it eighty-something times, you can still potentially use that evidence against someone. I learned a lot of Orwellian talk, *1984*, *Animal Farm*-type of things. George Orwell talked about Big Brother and misuse of language.

Q: But it has not shaken your pride in what you actually do.

Bradley: No. The one thing with the military, and particularly with the TJAGs—the military all along was not in favor of the commissions and how they were being rolled out. Unfortunately, this is the other thing—I think the military takes a bad rap, because we got in the middle, involved in a political situation, and we are not a political entity whatsoever.

The military commissions got wrapped up in this political situation. It made the military look like we were the ones involved in this, when this was really war from the White House, and more from politicians than it was military attorneys. We were just called in to do our duty, but we come out looking as if we are the buffoons, and we are the bad guys in this.

I think in the end, when you look at the actions of many military defense counsels and prosecutors, they have been the ones most critical of the situation, and the ones who have been fighting this tooth and nail, because we know what a fair trial should be. We know what a court martial looks like. We know what principles we should be holding. The people that have been the heroes to me have been the people like Darrel Vandeveld or other individuals who have stood up to this at the sake of their own careers. The military have been, to me, despite what it may look like on the outside, the real heroes in trying to say they never wanted a part of this nonsense.

Q: Well, you did your part fairly, wouldn't you say? And respectful of your principles and obligations, wouldn't you say?

Bradley: Yes. I think many people in the military did that. I definitely want to say that from the military standpoint, I am still proud of my service. I am still proud of our military men and women who have gotten involved in this, and who fought the good fight to do the right thing and stand on principles, despite the difficulties of Guantánamo Bay and the challenges of Guantánamo Bay.

I have seen a lot of good men and women fight through things they should never have to fight through in their career, do something that is right for people who were alleged terrorists and enemies, or fight a system that was unjust to do the right thing. I think that speaks highly of the men and women who were involved in this and took the right stand, in my opinion.

Q: Thank you for talking to me, Colonel.

Bradley: You're welcome.

Q: Colonel, did you see Binyam Mohamed after his release in England in February 2009?

Bradley: Yes, I did. I was there, of course, with them when he arrived in London in December 2009. Then later, in July of 2009, I had the opportunity to see him again. Binyam had fixed me a spaghetti dinner.

I just want to tell you about that because about two or three years prior to that, while he was still in Guantánamo, he was on a hunger strike. I went and talked with Binyam. He kept talking about food. I didn't know why he kept talking about food, especially on a hunger strike, but he was telling me that he made the best spaghetti dinner in the world and he promised me—he said, "If I ever get out of Guantánamo Bay, I will fix you a spaghetti dinner." This is about in 2007.

In 2009, when he got released, I was over in London. He contacted me, and he asked me what I was doing on a Wednesday night. I said that I was not doing anything. He asked if I could come over. When I came over there, it was Binyam, Omar Deghayes, myself, and another young woman from Reprieve—

Q: Omar Deghayes had been a—

Bradley: He was a former detainee in Guantánamo Bay, and had been released. Binyam had fixed me this spaghetti dinner. I was so touched. I had forgotten about this whole conversation that he and I had years ago, while he was on a hunger strike, that he would fix me a spaghetti dinner, but Binyam did not forget about it at all, and wanted to make sure he gave me the spaghetti dinner.

Throughout the dinner, he kept apologizing, because he had bought the wrong type of noodles, or he thought he had spaghetti noodles in the house, thin spaghetti noodles, but he had more of a penne type of noodle. He kept apologizing that he was sorry that he had the wrong type of noodles.

I kept telling Binyam, “I am just so honored that you would fix me a dinner. That was not necessary.” But he kept saying that it was the least he could do for me, and to keep the promise he had made me years ago, that when he got out, he would fix me a spaghetti dinner.

Q: But considering what you said earlier about how money is not going to compensate for the loss of eight years of his life, and in the conditions in which he had to endure it, would you say he has at least outwardly appears to have recovered, somewhat?

Bradley: That is hard to say. I mean, outwardly, it may appear that way. But I know probably emotionally, psychologically, there is probably so much that he has to deal with. It was always my fear. The other thing that I was always concerned about, not with Binyam in particular but for all the detainees, but in looking at Binyam, is the fact that we hold these people for years, we

have done all this abuse to them, and we just let them go, with only a jacket on their back, and no support and nothing—that we allow these individuals to go without support.

All these individuals, and Binyam in particular, will need, I am quite sure, support, and will need counseling, and will need someone to help him, and the system to help them, and people to help him, through the abuse that he went through.

Outward appearance, yes. He looks like he is functional. But knowing human beings, and knowing how we function, and knowing what he has been through, it is another shame of the U.S. government to just release someone like that, without even an apology of what they have done with him, not an admission of what they have taken from this young man.

Q: Thank you, Colonel.

Bradley: You're welcome.

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